

ACTS  
*of the*  
LEGISLATURE  
*of*  
WEST VIRGINIA

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REGULAR AND EXTENDED SESSIONS

1929

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**NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.**

**Municipal charters are published in a separate volume.**

## ERRATA

Page 69, section 110, line 1, "residents" should read "residence".

Page 81, section 20, at the end of line sixteen, the period should be a comma.

Page 120, section 13, insert line seven as follows:

"7 and general control of the department of banking."

Page 190, section 9, line 6, "analysis" should read "analyst".

Page 269, section 100, line 31, "of" should read "or".

Page 297, section 3, line 52, "a" should read "an".

Page 298, section 4, line 2, strike out the word "he".

Page 312, section 1, line 5, "fire" should read "firm".

Page 312, section 1, line 8, "them" should read "term".

Page 314, section 3, line 37, "ive" should read "five".

Page 398, section 1, line 74, "tw ohundred and eighty" should read "twenty-eight degrees".

Page 398, section 1, line 85, "two hundred and eighty" should read "twenty-eight".

Page 398, section 1, line 89, "one-hundredths" should read "tenths".

Page 399, section 1, strike out lines 94 to 100, inclusive, and insert in lieu thereof the following:

"minutes east, one hundred and seventy-one and eight tenths feet to the south-east corner of lot three; thence with the south line of lot two south forty-four degrees one minute east twenty-two four tenths feet; thence south twenty-nine degrees twenty-eight minutes east twenty feet; thence south forty-one degrees forty-four minutes east nine seven one tenths feet; thence south sixty-four de-".

Page 442, section 1, line 9, strike out the first "to".

Page 477, section 13, line 7, "court" should read "county".

Page 500, line sixteen, "on" should read "or".



# List of Members and Officers of the Legislature of West Virginia 1929

## SENATE

President—M. Z. White, Williamson.  
Clerk—M. S. Hodges, Franklin.  
Sergeant-at-Arms—Roscoe C. Mullens, Buffalo.  
Doorkeeper—A. S. McDougal, Harrisville.

DISTRICT	NAME	POST OFFICE
First.....	Wright Huges, (R)..... *W. Edwin Wells, Jr', (R).....	Wheeling Newell
Second.....	Walter R. Reits, (R)..... *Evan G. Roberts, (R).....	Sistersville Moundsville
Third.....	Albert B. White, (R)..... *Thomas J. Davis, (R).....	Parkersburg Harrisville
Fourth.....	Wm. E. Walker, (R)..... *Wm. Woodyard, (R).....	Ripley Spencer
Fifth.....	Dr. B. W. West, (R)..... *Jacob D. Smith, (R).....	Huntington Hamlin
Sixth.....	M. Z. White, (R)..... *L. E. Woods, (R).....	Williamson Welch
Seventh.....	T. H. Lilly, (R)..... *John Q. Hutcheson, (R).....	Hinton Beekley
Eighth.....	Walter S. Hallanan, (R)..... *M. T. Miller, (R).....	Charleston Madison
Ninth.....	A. B. Abbot, (D)..... *Perry N. Wiseman, (D).....	Fayetteville Summersville
Tenth.....	A. C. Herold, (D)..... *Albert G. Mathews, (D).....	Sutton Grantsville
Eleventh.....	Ira L. Smith, (R)..... *W. Merle Watkins, (R).....	Fairmont Grafton
Twelfth.....	Blaine Engle, (R)..... *John R. Davis, (R).....	Clarksburg Weston
Thirteenth.....	B. H. Elner, (D)..... *Harry B. Martin, (R).....	Franklin Elkins
Fourteenth.....	E. Bunker Reynolds, (R)..... *A. L. Helmick, (R).....	Keyser Thomas
Fifteenth.....	Frank B. Robinson, (R)..... *Harry P. Henshaw, (D).....	Ranson Bunker Hill

(R)..... Republican.  
(D)..... Democrat.  
(\* )..... Holdover Senators.



# Standing Committees of the Senate

## ON PRIVILEGES AND ELECTIONS.

Messrs. Walker (*Chairman*), Woods, Wells, Roberts, Davis (of Ritchie), West, Hutchinson, Mathews and Abbot.

## ON THE JUDICIARY.

Messrs. Smith (of Marion), (*Chairman*), Reynolds, Hugus, Engle, Smith (of Lincoln), Davis (of Ritchie), Hutchinson, Watkins, Hallanan, Lilly, Helmick, Roberts, Wiseman, Hiner and Mathews.

## ON FINANCE.

Messrs. Hallanan (*Chairman*), Helmick, Reitz, White (of Wood), Woods, Reynolds, Robinson, Miller, Walker, Woodyard, Wells, West, Davis (of Lewis), Martin, Abbot, Henshaw and Herold.

## ON EDUCATION.

Messrs. Reynolds (*Chairman*), Engle, Woods, Hugus, Smith (of Lincoln), Miller, Martin, Mathews and Herold.

## ON COUNTIES AND MUNICIPAL CORPORATIONS.

Messrs. White (of Wood), (*Chairman*), Hugus, Reynolds, Hallanan, Smith (of Marion), West, Roberts, Abbot and Henshaw.

## ON ROADS AND NAVIGATION.

Messrs. Reitz (*Chairman*), Robinson, Helmick, Reynolds, Lilly, Engle, Hallanan, Woods, Davis (of Ritchie), West, Wells, Woodyard, Roberts, Hiner, Abbot, Henshaw and Mathews.

## ON BANKS AND CORPORATIONS.

Messrs. Roberts (*Chairman*), Hugus, Robinson, Walker, Davis (of Lewis), Watkins, Hutchinson, Wiseman and Herold.

## ON PUBLIC BUILDINGS AND HUMANE INSTITUTIONS.

Messrs. Martin (*Chairman*), Robinson, White (of Wood), Lilly, West, Miller, Davis (of Lewis), Roberts, Wells, Herold and Wiseman.

## ON PENITENTIARY.

Messrs. Helmick (*Chairman*), Reynolds, Reitz, Smith (of Lincoln), Hutchinson, Watkins, Roberts, Herold and Henshaw.

## ON RAILROADS.

Messrs. Helmick (*Chairman*), Woods, Lilly, Davis (of Lewis), Davis (of Ritchie), Walker, Hutchinson, Henshaw and Hiner.

## ON MILITIA.

Messrs. Wells (*Chairman*), Helmick, Robinson, Davis (of Ritchie), Walker, Hutchinson, Watkins, Herold and Abbot.

## ON FEDERAL RELATIONS.

Messrs. Davis (of Ritchie) (*Chairman*), Engle, Woods, Lilly, Watkins, Smith (of Lincoln), Wells, Henshaw and Mathews.

## ON INSURANCE.

Messrs. Engle (*Chairman*), Woods, Hallanan, Smith (of Marion), Helmick, Robinson, West, Abbot and Henshaw.

## ON IMMIGRATION AND AGRICULTURE.

Messrs. Robinson (*Chairman*), Reynolds, Davis (of Lewis), Davis (of Ritchie), Walker, Smith (of Lincoln), Martin, Hiner and Wiseman.

## ON MINES AND MINING.

Messrs. Wood (*Chairman*), Helmick, Smith (of Marion), Hugus, Hutchinson, Watkins, Miller, Abbot and Wiseman.

## ON MEDICINE AND SANITATION.

Messrs. West (*Chairman*), White (of Wood), Hallanan, Lilly, Wells, Watkins, Davis (of Lewis), Mathews and Abbot.

## ON LABOR.

Messrs. Watkins (*Chairman*), Reynolds, Woods, Robinson, Hugus, Walker, Smith (of Lincoln), Henshaw and Hiner.

## ON CLAIMS AND GRIEVANCES.

Messrs. Hutchinson, (*Chairman*), Reitz, White (of Wood), Martin, Wells, West, Miller, Hiner and Herold.

## ON FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS.

Messrs. Davis (of Lewis), (*Chairman*), Reynolds, Smith (of Marion), Watkins, Woodyard, Hutchinson, Smith (of Lincoln), Wiseman and Mathews.

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Messrs. Woodyard (*Chairman*), Reitz, Helmick, Hugus, Engle, West, Lilly, Abbot and Herold.

## ON RULES.

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## TO EXAMINE CLERK'S OFFICE.

Messrs. Smith (of Lincoln), (*Chairman*), Woodyard, Martin and Abbot.

## ON PUBLIC LIBRARY.

Messrs. Woodyard, (*Chairman*), Reitz, White (of Wood), Robison, Davis (of Ritchie), Smith (of Lincoln), Hutchinson, Hiner and Wiseman.

## ON TEMPERANCE.

Messrs. Miller (*Chairman*), White (of Wood), Woods, Engle, Wells, Smith (of Lincoln), Hutchinson, Mathews and Abbot.

## ON RE-DISTRICTING.

Messrs. Hugus (*Chairman*), White (of Wood), Reynolds, Hallanan, Smith (of Marion), West, Woodyard, Hiner and Abbot.

## ON FORESTRY AND CONSERVATION.

Messrs. Lilly (*Chairman*), Reitz, Hallanan, Smith (of Marion), Davis (of Lewis), Miller, Martin, Hutchinson, West, Wells, Henshaw and Wiseman.

## JOINT COMMITTEE ON ENROLLED BILLS, ON THE PART OF THE SENATE.

Messrs. Smith (of Lincoln), (*Chairman*), Wells, Walker, Watkins and Abbot.



# House of Delegates

## OFFICERS

Speaker—J. Wm. Cummins, Wheeling.  
 Clerk—L. V. Reed, Sistersville.  
 Sergeant-at-Arms—W. H. Hutcheson, Spencer.  
 Doorkeeper—E. H. Knabenshue, Buckhannon.

COUNTY	MEMBERS	POST OFFICE
Barbour.....	Herman J. Poling, (D).....	Phillippi
Berkeley.....	Charles Beard, (R).....	Martinsburg
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Braxton.....	L. T. Harvey, (D).....	Sutton
	J. C. Dean, (D).....	Frametown
Brooke.....	James L. Deuley, (R).....	Wellsburg
Cabell.....	R. Lee Beuhring, (R).....	Huntington
	Ralph R. Robison, (R).....	Huntington
	M. F. Leonard, (R).....	Huntington
	R. F. Brammer, (R).....	Millton
Calhoun.....	George W. Hays, (D).....	Arnoldsburg
Clay.....	L. J. Reed, (R).....	Proclous
Doddridge.....	Ira E. Smith, (R).....	West Union
Fayette.....	R. L. Mathews, (D).....	Montgomery
	J. H. MacQueen, (D).....	Fayetteville
	W. H. Evans, (D).....	Ansted
	C. Lance Marshall, (D).....	Mount Hope
Glimer.....	R. F. Kidd, (D).....	Glenville
Grant.....	J. L. Rexroad, (R).....	Lahmansville
Greenbrier.....	W. T. Sheppard, (D).....	Smoot
	John Rainc, (R).....	Rainelle
Hampshire.....	Caudy G. Davis, (D).....	Yellow Springs
Hancock.....	Thomas F. McKenzie, (R).....	New Cumberland
Hardy.....	J. D. Chipley, (D).....	Moorefield
Harrison.....	Karl B. Kyle, (R).....	Clarksburg
	Harvey W. Harmer, (R).....	Clarksburg
	E. Leslie Long, (R).....	Clarksburg
	James W. Bartlett, (R).....	Clarksburg
Jackson.....	Harry Riley, (R).....	Ripley
	Earl M. McClothlin, (R).....	Ravenswood
Jefferson.....	U. S. Martin, (D).....	Shepherdstown
Kanawha.....	Harold Mathews, (R).....	Charleston
	Edward Calderwood, (R).....	Charleston
	James O. Iakin, (R).....	Charleston
	T. J. Robson, (R).....	Charleston
	E. M. Keatley, (R).....	Charleston
	Chas. K. Payne, (D).....	Charleston
Lewis.....	J. W. Farnsworth, (R).....	Weston
Lincoln.....	Kyle Toppling, (R).....	Atanville
Logan.....	Harry S. Gay, Jr., (R).....	Mount Gay
Marion.....	Rollo J. Conley, (R).....	Fairmont
	M. L. Brown, (R).....	Fairmont
	Ellsworth Morgan, (R).....	Fairmont, R. F. D. 8.
Marshall.....	Dr. Will F. Crow, (R).....	Glen Easton
	C. E. Hutcheson, (R).....	Moundaville
Masson.....	George A. Ralston, (R).....	Leon

## MEMBERS OF THE HOUSE OF DELEGATES

County	Members	Post Office
Mason	Russell Starkey, (R)	Glenwood
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	Roy A. Cole, (R)	Montcalm
	T. K. Massie, (R)	Princeton
Mineral	O. S. W. Fazenbaker, (R)	Keyser
Mingo	William B. Hogg, (R)	Williamson
Monongalia	James W. Hartigan, (R)	Morgantown
	Hu S. Vandervort, (R)	Morgantown
Monroe	L. H. Talbot, (D)	Union
Morgan	S. S. Bussard, (R)	Berkeley Springs
McDowell	J. W. Luther, (R)	Welch
	M. H. Tabor, (R)	Crumpler
	John D. Kennedy, (R)	Bradshaw
	T. Edward Hill, (R)	Keystone
Nicholas	J. E. Brown, (D)	Summersville
Ohio	John Ulrich, (R)	Wheeling
	John T. Carter, (R)	Elm Grove, Wheeling
	J. Wm. Cummins, (R)	Wheeling
	Milton McCollooh, (R)	Wheeling, R. F. D.
Pendleton	R. M. Elner, (D)	Franklin
Pleasants	Charles E. Fogle, (R)	St. Marys
Poahontas	George F. Hull, (R)	Durbin
Preston	B. S. Rankin, (R)	Tunnelton
	James Henry Smith, (R)	Brunston Mills
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Raleigh	A. C. Sutphin, (R)	Beekley
	Kyle D. Harper, (D)	Beekley
Randolph	Frank C. Baker, (D)	Elkins
	Cyrus H. Scott, (D)	Elkins
Ritchie	Harvey Cline, (R)	Pennsboro
Roane	Charles S. Meredith, (R)	Spencer
	Grover P. Hedge, (D)	Spencer
Summers	O. P. Vines, (D)	Hinton
Taylor	Guy D. Haymond, (R)	Grafton
Tucker	M. B. West, (D)	Parsons
Tyler	James T. Fonner, (R)	Middlebourne
Upshur	B. C. Radabaugh, (R)	Hall
Wayne	General H. Marcum, (D)	Crum
	W. B. Smith, (D)	Wayne, Route No. 1
Webster	W. S. Wysong, (D)	Webster Springs
Wetzel	Lee Cusack, (D)	New Martinsville
	W. O. Gallagher, (D)	Pine Grove
Wirt	Hugh Prather, (D)	Ellsabeth
Wood	J. F. Bennett, (R)	Parkersburg
	Thayer M. McIntire, (R)	Parkersburg
	Frances I. Radenbaugh, (R)	Parkersburg
Wyoming	Joseph H. Cooper, (R)	Pineville

63 Republicans.

31 Democrats.

# Standing Committees of the House of Delegates

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## ON ELECTIONS AND PRIVILEGES.

Messrs. Keatley (*Chairman*), Radabaugh, Hutchinson, McKenzie, Hull, Stephens, Gay, Long, Smith (of Doddridge), Rice, Kidd, Scott, Hays, Wysong and Poling.

## ON THE JUDICIARY.

Messrs. Hogg (*Chairman*), Harmer, Keatley, Rice, Beuhring, McKenzie, Kyle, Long, Conley, Miss Radenbaugh, Messrs. Smith (of Preston), Buzzerd, Tabor, Wysong, Kidd, Hiner, Scott and Poling.

## ON FEDERAL RELATIONS.

Messrs. McKenzie (*Chairman*), Beard, Rairden, Leonard, Rexroad, Kennedy, Topping, Riley, Fazenbaker, Fonner, Prather, Gallagher, Vines, Peters and Davis.

## ON TAXATION AND FINANCE.

Messrs. Mathews (of Kanawha), (*Chairman*), Raine, Cole, Robison, Lakin, Stephens, Hartigan, Brown (of Marion), McColloch, Sutphin, Hutchinson, Bennett, Meredith, Hill, Smith (of Doddridge), Gay, Payne, Baker, Harvey, White, Cusack and Peters.

## ON MILITARY AFFAIRS.

Messrs. Conley (*Chairman*), Stephens, Crow, Hogg, Smith (of Preston), Beuhring, McKenzie, Riley, Lakin, Reed, Hartigan, Chipley, Sheppard, White, Matthews (of Fayette) and Hiner.

## ON PROHIBITION AND TEMPERANCE.

Messrs. Harmer (*Chairman*), Fogle, Morgan, Rexroad, Beard, Massie, Buzzerd, Smith (of Doddridge), Topping, Miss Radenbaugh, Messrs. Harvey, Brown (of Nicholas), Martin, Scott and Hays.

## ON EDUCATION.

Messrs. Brammer (*Chairman*), Vandervort, Cline, Cooper, Deuley, Rexroad, Bartlett, Fogle, Kennedy, Massie, Haymond, Hartigan, Fonner, Scott, Cusack, Hedges and Matthews (of Fayette).

## ON COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS

Messrs. Beuhring (*Chairman*), Carter, Starkey, Morgan, Lakin, Long, Tabor, Massie, Calderwood, Stephens, Kidd, Chipley, Dean, Talbott and Payne.

## ON BANKS AND CORPORATIONS.

Messrs. Carter (*Chairman*), Smith (of Doddridge), Brown (of Marion), Sutphin, Robson, Long, McKenzie, Calderwood, Luther, Raine, Payne, Matthews (of Fayette), Peters, White and Vines.

## ON ROADS.

Messrs. Calderwood (*Chairman*), Smith (of Preston), Robison, Gay, Vandervort, Starkey, Riley, Reed, Luther, Sutphin, Carter, Buzzerd, Hedges, Wysong, Baker, Talbott and Hiner.

## ON FORFEITED AND UNAPPROPRIATED LANDS.

Messrs. Starkey (*Chairman*), Fazenbaker, Crow, Cline, Coóper, Buzzerd, Rice, Topping, Hill, Cole, Kidd, Wysong, Hiner, Evans and West.

## ON CLAIMS AND GRIEVANCES.

Messrs. Beard (*Chairman*), Robson, Fonner, Fogle, McIntire, McGlothlin, Leonard, Morgan, Bartlett, Farnsworth, Marshall, Hedges, Prather, Harper and Martin.

## ON HUMANE INSTITUTIONS AND PUBLIC BUILDINGS.

Messrs. Lakin (*Chairman*), Radabaugh, Brammer, Miss Radenbaugh, Messrs. Hartigan, Farnsworth, Raine, Crow, Meredith, Cline, MacQueen, Davis, Marshall, West and Marcum.

## ON PRINTING AND CONTINGENT EXPENSES.

Messrs. Haymond (*Chairman*), McColloch, Deuley, Conley, Bartlett, Fogle, Mathews (of Kanawha), Rice, Rexroad, Leonard, Evans, Smith (of Wayne), Brown (of Nicholas), Gallagher and Marcum.

## ON EXECUTIVE OFFICES AND LIBRARY

Messrs. Rexroad (*Chairman*), Rankin, Hull, Luther, Massie, Hogg, Haymond, Harmer, Beuhring, McGlothlin, Prather, Harvey, Hays, Harper and Cusack.

## ON FORESTRY AND CONSERVATION.

Messrs. Raine (*Chairman*), Farnsworth, Robson, Buzzerd, Beard, Massie, Kennedy, Hull, Sutphin, Meredith, White, Kidd, Marshall, Hays and Martin.

## ON ARTS, SCIENCE AND GENERAL IMPROVEMENTS.

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## ON PENITENTIARY.

Messrs. Brown (of Marion), (*Chairman*), Crow, Fonner, Ulrich, Radabaugh, Leonard, Bennett, Beard, Keatley, Bartlett, Talbott, Cusack, Harvey, Poling and Martin.

## ON MINES AND MINING.

Messrs. Gay (*Chairman*), Robson, Sutphin, Lakin, Smith (of Preston), Conley, Bartlett, Cole, Tabor, Vandervort, McColloch, Baker, Peters, White and Harper.

## ON AGRICULTURE.

Messrs. McGlothlin (*Chairman*), Massie, Miss Radenbaugh, Messrs. Vandervort, Beard, McColloch, Reed, Rankin, Topping, Rairden, Dean, Sheppard, Martin and Smith (of Wayne).

## ON STATE BOUNDARIES.

Messrs Rankin (*Chairman*), Rairden, Brammer, McKenzie, Riley, Fazenbaker, Rexroad, Kennedy, Ulrich, Fonner, Hiner, Marcum, Brown (of Nicholas), MacQueen and Harper.

## ON RAILROADS.

Messrs. Rice (*Chairman*), Conley, Luther, Raine, Kyle, Gay, Stephens, Hull, Calderwood, McCulloch, Cusack, Kidd, Vines, Talbott and Baker.

## ON LABOR.

Messrs. Ulrich (*Chairman*), Rice, Kyle, Fazenbaker, Leonard, Crow, Haymond, Bennett, Deuley, Bartlett, Cusack, Harper, Marshall, Peters and MacQueen.

## ON MEDICINE AND SANITATION.

Messrs. Hull (*Chairman*), Rankin, Hartigan, Crow, Hutchinson, McIntire, Morgan, Luther, Radabaugh, Cooper, West, Brown (of Nicholas), Harvey, Marcum and White.

## ON GAME AND FISH.

Messrs. Deuley (*Chairman*), Keatley, Rairden, Cole, Long, Rankin, Beard, Hull, Hutchinson, Cooper, West, MacQueen, Payne, Brown (of Nicholas), Baker and Chipley.

## ON INSURANCE.

Messrs. Luther (*Chairman*), Fonner, Gay, Robison, Robson, Bennett, Ulrich, McIntire, Leonard, Raine, Payne, Marshall, Baker, Harper and Peters.

## ON RULES.

Messrs. Cummins (*Chairman, ex-officio*), Keatley, Hull, Tabor, Hogg, Mathews (of Kanawha), Wysong and Baker.

## ON RE-DISTRICTING.

Messrs. Massie (*Chairman*), Kyle, Lakin, Farnsworth, Tabor, Cooper, Conley, Long, Gay, Smith (of Doddridge), Scott, Harper, MacQueen, Smith (of Wayne) and Davis.

## JOINT COMMITTEE ON ENROLLED BILLS, ON THE PART OF THE HOUSE.

Messrs. Buzzerd (*Chairman*), McIntire, Beard, Fonner, Baker and Harvey.

# TABLE OF CONTENTS

## ACTS AND RESOLUTIONS

### REGULAR SESSION, 1929

#### GENERAL LAWS

#### (STATE DEPARTMENTS, INSTITUTIONS, ETC.)

Chapter	Page
1. Retirement pay for judges of supreme court of appeals.....	1
2. Time of payment of salaries of members of legislature.....	2
3. Salaries of elective state officials except Governor.....	3
4. Sexual sterilization of certain inmates of state institutions.....	3
5. Creating state library commission.....	8
6. Moneys collected by state institutions, etc., to be deposited in state treasury .....	10
7. Fixing salary and fees of clerk of supreme court of appeals.....	12
8. Establishing state bridge commission.....	14
9. Payment by county courts for support of inmates in West Virginia Children's Home and West Virginia Colored Orphans Home.....	24
10. Hospital treatment for venereal diseased girls committed to West Virginia Industrial Home for Girls.....	25
11. Changing name and enlarging powers of West Virginia Collegiate Institute .....	26
12. Commissioner of Labor to maintain public employment bureau.....	28
13. Game, fish and forestry law.....	32
14. Creating state water commission.....	73
15. Levy for building main unit of Capitol.....	78
16. Department of Mines, additional inspectors and safety regulations.....	80
17. Department of Mines, qualifications and salary of chief.....	82

#### CONSTITUTIONAL AMENDMENTS

18. Proposing constitutional probate amendment.....	83
19. Proposing constitutional lieutenant governor amendment.....	86
20. Proposing constitutional circuit court amendment.....	91
21. Proposing constitutional budget amendment.....	94

#### BANKS AND BANKING

22. Assessment of stock and realty of banks and trust companies.....	101
23. General banking law.....	103
24. Loans of three hundred dollars or less.....	146

## INSURANCE

25. Validating two-thirds and similar clauses used by farmers' mutual co-operative fire insurance companies.....	147
26. Married woman may insure for her sole use, the life of her husband....	148
27. Rights of beneficiary or assignee under life insurance policy.....	149
28. Supervision of insurance rate making associations by commissioner of insurance .....	150

## PROBATION AND WELFARE

29. Appointment of probation officers by judge of court.....	157
30. Creating county welfare boards.....	158

## JURORS AND JURY COMMISSIONERS

31. Per diem and meals for jurors.....	160
32. Jury commissioners, qualification and duties.....	161

## EDUCATION

33. Classification of high schools, etc.....	164
34. State aid to students outside state.....	165
35. Separate schools for white and negro pupils and salaries of negro teachers .....	167

## PLEADING AND PRACTICE

36. Removing cloud on title to real estate.....	168
37. Release of infants claims for damages for personal injuries.....	169
38. Procedure as to estate of supposed decedent.....	170
39. Procedure on notice of motion for judgment.....	172
40. Proof of debts before commissioners in chancery or of accounts.....	174

## CRIMES AND PUNISHMENT

41. Fraudulent making or uttering of checks, etc.....	175
42. Fraudulent operation of coin box telephones.....	177
43. Misrepresentation in sale of liquid fuels, oils, etc.....	178
44. Penalty for laboring on Sabbath day.....	180
45. Definition of and punishment for arson.....	180

## AGRICULTURE AND HORTICULTURE

46. Grading and packing of fruits and vegetables.....	183
47. Community demonstration in utilization of garden products.....	185
48. Regulating sale of commercial feed stuffs.....	186

## ROADS, BONDS FOR, ETC.

49. Authorizing sale of twenty million dollars of state road bonds.....	191
50. Duplicate for lost or destroyed state road bonds.....	199
51. Convict labor on roads.....	200

## CIRCUIT COURT JUDGES

52. Compensation of judges in counties of one hundred thousand population or more.....	201
53. Expenses of offices and stenographers for judges.....	202

ASSESSMENTS FOR TAXATION

54. Corrections by county court of clerical errors, etc., in assessments.... 203  
 55. Appeals from assessments by aggrieved taxpayers..... 205  
 56. Boards of review and equalization, assessments by..... 207

GENERAL LAWS (UNCLASSIFIED)

57. Tax on transfer of estates of deceased persons..... 210  
 58. Water power development..... 216  
 59. Free railway transportation for full time religious workers..... 245  
 60. Protection of trees, flowers and shrubbery along public roads..... 246  
 61. Establishment of airports and landing fields..... 247  
 62. Terms of municipal officers under chapter forty-seven, code..... 252  
 63. Notice to foreign corporations of city improvements..... 253  
 64. Prohibition law..... 274  
 65. Circuit court clerk to receive one-half naturalization and passport fees.. 262  
 66. Deposits or payments on annuity contract for annuity bond..... 263  
 67. Recovery of damages for injuries done by hogs running at large..... 267  
 68. License taxes and restrictions on junk dealers..... 268  
 69. Time and method to collect taxes not returned delinquent..... 270  
 70. Exempting certain motor vehicles from payment of registration fee.... 271  
 71. Workmen's compensation law..... 272  
 72. Transfer to trust company of property held by trustees for benevolent,  
 charitable or public purposes..... 280  
 73. Congressional redistricting..... 281  
 74. Qualifications to practice dentistry..... 282  
 75. Qualifications to practice medicine..... 291  
 76. Bonds of contractors on public work..... 294  
 77. Securities law..... 295  
 78. Permanent endowment for cemeteries..... 297  
 79. Conditional sale of railway and watercraft equipment..... 299  
 80. Method of sale of county or district property..... 300  
 81. Roster of soldiers, marines, etc., of Spanish-American and World War.. 301  
 82. Veterans' guardianship and commitment act..... 302  
 83. Protection of workmen in factories, mercantile establishments, etc..... 308  
 84. Issuance of duplicate certificates of corporate stock..... 309  
 85. State fire marshal may require exit doors to swing outward..... 310  
 86. Development and operation of oil and gas wells through workable coal  
 seams ..... 311  
 87. How vacancies in certain county offices filled..... 325  
 88. Compensation for county commissioners for services other than in court 326  
 89. Appropriation (Budget) Bill..... 328

LOCAL LAWS

(INDEPENDENT SCHOOL DISTRICTS, HIGH SCHOOLS, ETC.)

90. Powers of board of education of Spencer independent school district... 383  
 91. Elections and voting precincts, Charleston independent school district.. 385  
 92. Joint district high school for Sheridan, Laurel Hill and Harts Creek dis-  
 tricts, Lincoln county..... 386  
 93. Validating school bonds of district of Charles Town, Jefferson county.. 392  
 94. Boundaries of Charleston independent school district..... 396  
 95. Retirement fund for school employees, Charleston independent school  
 district ..... 403  
 96. Clerical assistance for county superintendent of free schools, McDowell  
 county ..... 404  
 97. Creating Washington independent school district, Pleasants county.... 404

98.	Transfer of funds of Fetterman district, Taylor county.....	409
99.	Transfer of funds of Clay county high school.....	410
100.	Validating high school at Glen Rogers, Wyoming county.....	411
101.	Board of directors of Tyler county high school, powers of.....	411
102.	Boundaries of Grafton independent school district.....	412
103.	Validating high school at Glenwood, Mercer county.....	413
104.	Validating high school at Glen Fork, Mercer county.....	414
105.	Establishing high school for colored pupils, Barkers Ridge district, Wyoming county.....	414
106.	Establishing high school for colored pupils, Slab Fork district, Wyoming county.....	415
107.	Establishing county high school, Doddridge county.....	415
108.	Establishing Butler district high school, Wayne county.....	419
109.	Establishing county high school for colored pupils, Mineral county....	422
110.	Levy by board of directors, Nicholas county high school.....	424
111.	Validating high schools at Sardis and Wallace, Harrison county.....	425
112.	Special levy, board of education of Kingwood district, Preston county..	426

### SPECIAL LEVIES (MUNICIPAL AND COUNTY)

113.	Special waterworks levy, city of Thomas.....	426
114.	Special levy, county purposes, Mingo county.....	427
115.	Special present indebtedness levy, Wyoming county.....	428
116.	Special road and bridge levies, Marshall county.....	429
117.	Special bridge levy, Nicholas county.....	432
118.	Special levy, general county purposes, Hancock county.....	433
119.	Special county levy, Logan county.....	434
120.	Special bridge levy, Taylor county.....	435
121.	Special sewer levy, city of Dunbar.....	436
122.	Increase of general county levy and reduction of county road levy, Ran- dolph county.....	437
123.	Special road levy, Ceredo, Butler and Lincoln districts, Wayne county..	438
124.	Special court house and jail levy, Greenbrier county.....	442
125.	Special levy, indebtedness of 4-H club, Webster county.....	444
126.	Special levy, county purposes, Braxton county.....	445
127.	Bond issue or special levy for court house, Harrison county.....	446
128.	Increase of general county levy and reduction of county road levy, Web- ster county.....	447

### VALIDATION OF BONDS

129.	Validation of bonds of Sandy river district, McDowell county.....	448
130.	Validation of waterworks bonds, city of Parkersburg.....	453

### TERMS OF COURTS

131.	Terms of court, seventh and twenty-fourth judicial circuits.....	458
132.	Terms of court, fifth and fourteenth judicial circuits.....	458
133.	Terms of court, second judicial circuit.....	460
134.	Terms of court, eighth judicial circuit.....	460
135.	Terms of court, domestic relations court, Cabell county.....	461

### SALARIES, COUNTY OFFICIALS AND CIRCUIT JUDGES

136.	Salary circuit court clerk, Lincoln county.....	462
137.	Compensation of prosecuting attorney as attorney for boards of educa- tion, Taylor county.....	462
138.	Compensation of prosecuting attorney as attorney for boards of educa- tion, Ohio county.....	463
139.	Additional compensation for judge of sixteenth judicial circuit.....	464

TABLE OF CONTENTS

xix

140.	Employment of stenographer for judge of third judicial circuit.....	464
141.	Salaries of sheriff, assessor and circuit clerk, Pocahontas county.....	465
142.	Additional compensation to judge of twenty-third judicial circuit.....	466
143.	Salary circuit court clerk, Brooke county.....	467
144.	Employment of stenographer for prosecuting attorney, Lewis county...	467
145.	Employment of stenographer for prosecuting attorney, Preston county..	468
146.	Salary of judge of criminal court, Harrison county.....	468
147.	Stenographic or clerical assistance for prosecuting attorney of Hampshire county.....	469
148.	Assistant prosecuting attorney, Calhoun county.....	469
149.	Additional compensation judge of ninth judicial circuit.....	470
150.	Salary of circuit court clerk, Hampshire county.....	470
151.	Clerical assistance for prosecuting attorney, Tucker county.....	471
152.	Salaries two deputy sheriffs, Clay county.....	472
153.	Stenographic or clerical assistance for prosecuting attorney, Roane county .....	472
154.	Salaries clerks of circuit and county court, sheriff and prosecuting attorney, Putnam county.....	473

LOCAL BILLS (UNCLASSIFIED)

155.	Construction of bridges in Taylor county.....	473
156.	Publication of financial statement by city of Grafton.....	474
157.	Ohio county to pay City of Wheeling for certain street paving.....	475
158.	Grand juries and jury commissioners, intermediate court of Ohio county	476
159.	Transfer of balances from bond issues to general county road fund of Ohio county.....	478
160.	Limitation on sale or mortgage of certain public property, city of Grafton .....	479
161.	County law library for Wetzel county.....	480
162.	Authorizing the county court of Brooke county to remove and re-inter remains of certain dead.....	481
163.	Contribution by county court of Morgan county for Morgan county library .....	482
164.	County court of Monongalia county authorized to establish and maintain a general county hospital.....	483

SENATE JOINT RESOLUTIONS

Number

1.	Proposing location of the summer White House in West Virginia.....	485
2.	Correcting seeming variance in language of legislative amendment adopted 1924.....	486
4.	Furnishing state reports to United States circuit judge.....	488
8.	Constitutional amendment, creating office of lieutenant-governor.....	489
9.	Designating United States Route No. 19 as "the Stonewall Jackson Memorial Highway".....	490
10.	Urging appropriations for the improvement of the Ohio and Great Kanawha rivers by the National Congress.....	491
12.	Constitutional probate amendment.....	492
15.	Accepting for West Virginia University and West Virginia State College, grants of money under Capper-Ketcham Act.....	493
17.	Revised budget bill requested from budget commission.....	494
18.	Adopting state flag.....	495

## SENATE CONCURRENT RESOLUTIONS

## Number

1. Raising a joint committee to wait upon the governor (legislature organized) .....	496
2. Providing for the appointment of a joint supervisor of printing for the two houses.....	496
3. Raising a joint committee to investigate the penitentiary.....	496
4. Providing for the introduction of a bill relating to the charter of the City of Weston .....	498
5. Providing for the introduction of a bill submitting an amendment to section ten of article eight of the constitution (circuit judge amendment) .....	498

## HOUSE JOINT RESOLUTIONS

## Number

3. Proposing an amendment to section fifty-one or article six of the constitution (Budget Amendment).....	498
4. Proposing an amendment to section ten of article eight of the constitution (Circuit Judge Amendment).....	502
5. Authorizing the governor to appoint a commission to study constitutional needs .....	503
8. Providing for the printing of the minutes of the Wheeling convention of 1861 and the constitutional convention of 1862.....	504
10. Raising a joint committee to examine the report of the revisers of the code .....	505

## HOUSE CONCURRENT RESOLUTIONS

## Number

2. Raising a joint assembly to hear address of governor.....	506
3. Raising a joint assembly to publish election returns.....	507
4. Raising a joint committee on rules.....	507
5. Authorizing the auditor to draw his warrants for the mileage of members and for the per diem of officers and attaches of the House and Senate .....	507
7. For the establishment and maintenance of a general hospital for the care and treatment of veterans within the state of West Virginia.....	508
10. Recognizing the distinguished service of Master Sergeant Roy W. Hooe, U. S. Army, in the historic flight of the "Question Mark".....	509
13. Authorizing the governor to appoint a commission to investigate the evidence of the birth place of Nancy Hanks in Mineral county.....	510
14. Concerning a memorial for Booker T. Washington.....	511
15. Providing for the printing and distribution of the Advance Copies of the Acts .....	512
16. Raising a joint committee to wait upon the governor. (Adjournment) ..	513

# LEGISLATURE OF WEST VIRGINIA

## ACTS OF 1929

### REGULAR SESSION

#### CHAPTER 1

(Senate Bill No. 4—By Mr. Hallanan)

AN ACT providing for the retirement and pay of judges of the supreme court of appeals who shall have served at least one full term of twelve years and shall have reached the age of at least sixty-five years.

[Passed February 15, 1929; in effect ninety days from passage. Approved by the Governor.]

<p>SEC. 1. Retirement pay of judges of the supreme court of appeals: retired judge accepting benefits of act;</p>		<p>not to practice law; retired judge may be called in advisory capacity.</p>
---	--	---

*Be it enacted by the Legislature of West Virginia:*

Section 1. Whenever any judge of the supreme court of ap-  
2 peals shall have served by election, or by both appointment and  
3 election, at least twelve consecutive years, and shall have reached  
4 the age of sixty-five years, he may then, or at the end of the  
5 term of his election or appointment, resign or retire, and shall

6 thereafter during the remainder of his life be entitled to receive  
 7 the sum of six thousand dollars per annum, to be paid in equal  
 8 monthly installments out of any money in the treasury of the  
 9 state not otherwise appropriated. A vacancy thus created shall  
 10 be filled by appointment or election as provided by law in other  
 11 cases of vacancy.

12 And if a judge so retiring shall accept the benefits of this  
 13 act, he shall not while so receiving said benefits be permitted to  
 14 practice law in the courts of this state, or to hold any public  
 15 office or trust for which he receives compensation. And if after  
 16 his retirement under this act and acceptance of its benefits, he  
 17 shall enter the practice of law or be elected or appointed to any  
 18 public office or trust for which he receives any salary or other  
 19 compensation, his benefits under this act shall be suspended  
 20 for such time only as he shall be engaged in practice of the law  
 21 or shall occupy such public office or trust. And any judge  
 22 while accepting the benefits of this act shall be subject to call by  
 23 the supreme court for service to said court in an advisory  
 24 capacity without compensation other than the benefits under  
 25 this act, provided said judge is able to serve in such capacity.

## CHAPTER 2

(Senate Bill No. 10—By Mr. Smith, of Marion)

AN ACT providing for the payment of salaries of the members of  
 the senate and house of delegates pursuant to section thirty-  
 three of article six of the Constitution of the state, as amended,  
 and to amend section one of chapter twenty-three of the acts  
 of one thousand nine hundred and twenty-one.

[Passed January 15, 1929; in effect from passage. Approved by the Governor]

Sec. 1. Salaries of members of Senate and | House of Delegates; amount and  
 when payable.

*Be it enacted by the Legislature of West Virginia:*

That section one of chapter twenty-three of the acts of one thou-  
 sand nine hundred and twenty-one be amended and re-enacted so  
 as to read as follows:

Section 1. The salaries of the members of the senate and  
 2 house of delegates shall be five hundred dollars per annum,  
 3 payable out of the treasury on the third Wednesday in January  
 4 of each year.

## CHAPTER 3

(Senate Bill No. 11—By Mr. Smith, of Marion)

AN ACT to amend and re-enact section one, chapter ninety-two, Acts of the legislature one thousand nine hundred and twenty-one, relating to the salaries of elective state officers.

[Passed February 26, 1929; in effect from passage. Approved by the Governor.]

SEC.

1. Salaries of elective state officers, except the Governor.

*Be it enacted by the Legislature of West Virginia:*

That section one of chapter ninety-two of the acts of the legislature of one thousand nine hundred and twenty-one be amended and re-enacted to read as follows:

Section 1. That on and after March fourth, one thousand  
2 nine hundred twenty-nine, the salary of the secretary of state,  
3 state superintendent of free schools, auditor, treasurer, attorney  
4 general and commissioner of agriculture shall be seven thousand  
5 dollars each per annum, payable monthly out of the state  
6 treasury.

## CHAPTER 4

(Senate Bill No. 31—By Mr. West)

AN ACT to amend chapter one hundred and fifty of Barnes code of one thousand nine hundred and twenty-three so as to authorize and provide for the asexualization or sterilization of inmates of state institutions.

WHEREAS, both the health of the individual patient and the welfare of society may be promoted in certain cases by the sterilization of mental defectives under careful safeguard and by competent and conscientious authority; and

WHEREAS, such sterilization may be effected in males by the operation of vasectomy and in females by the operation of salpingectomy, both of which said operations may be performed without serious pain or substantial danger to the life of the patient; and

WHEREAS, the state has in custodial care and is supporting in various state institutions many defective persons who if now discharged or paroled would likely become by propagation of their

kind a menace to society but who if incapable of procreating might properly and safely be discharged or paroled and become self-supporting with benefit both to themselves and to society; and

WHEREAS, human experience has demonstrated that heredity plays an important part in the transmission of insanity, idiocy, imbecility, epilepsy and crime, now, therefore

[Passed March 5, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec.

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. Procedure for the sexual sterilization of certain inmates in certain of the state institutions.</li> <li>2. Appeal to circuit court from order of public health council; procedure on.</li> <li>3. Appeal from circuit to supreme court</li> </ol> | <ol style="list-style-type: none"> <li>4. Operation to be performed upon expiration of any stay of procedure.</li> <li>5. No civil or criminal liability for</li> <li>6. Limitation on kind of operation.</li> <li>7. Provisions for guardian <i>ad litem</i>.</li> </ol> |
|--|---|

*Be it enacted by the Legislature of West Virginia:*

That chapter one hundred and fifty of Barnes' code of one thousand and nine hundred and twenty-three relating to public health be amended by adding thereto the following sections:

Section 1. Whenever the superintendent of any of the following state institutions, namely, the Weston state hospital, the Huntington state hospital, the Spencer state hospital, the state colored hospital for the insane, the West Virginia industrial school for boys, the West Virginia industrial home for girls, the state industrial school for colored boys or the state industrial home for colored girls shall be of the opinion that it is for the best interests of the inmates of the institution of which he is superintendent and of society that any inmate of such institution who is afflicted with any hereditary form of insanity that is recurrent, idiocy, imbecility, feeble-mindedness or epilepsy should be sexually sterilized, such superintendent shall present to the public health council of this state a written petition stating the facts of the case and the grounds of his opinion, verified by his affidavit to the best of his knowledge and belief, and praying that an order may be entered by said council requiring him to perform, or to have performed by some competent physician or surgeon to be designated by him in his said petition or by said council in its order, upon such inmate named in such petition the operation of vasectomy if upon a male and of salpingectomy if upon a female.

A copy of such petition shall be served upon such inmate named therein, together with a notice in writing designating the time and place in said institution, not less than thirty days

25 before the presentation of such petition to said council, when  
 26 and where said council may hear and act upon such petition. If  
 27 such inmate has a parent, child, brother, sister, guardian or  
 28 committee, residing in this state whose name and place of resi-  
 29 dence are known to such superintendent, a copy of such petition  
 30 and notice shall be served upon such parent or parents, child,  
 31 brother, sister, guardian, or committee, and if such notice can-  
 32 not be so served, then the superintendent shall file a copy of  
 33 said petition in the office of the clerk of the county court of the  
 34 county where the inmate last resided. And notice shall be pub-  
 35 lished once a week for two successive weeks and completed  
 36 thirty days before the presentation of said petition to said  
 37 council, the costs of which publication shall be paid out of the  
 38 county treasury of the county wherein published. Said no-  
 39 tice shall be in the following form :

40 To the next of kin of..... : (Here  
 41 name inmate or inmates, if more than one)

42 Notice is given pursuant to law that the superintendent of  
 43 ..... (name the institution filing  
 44 the petition) will, on the ..... day of .....,  
 45 19....., file a petition before the public health council of West  
 46 Virginia to be heard at ..... (name place  
 47 of hearing), asking for an order directing the sterilization of  
 48 ..... (name the inmate), at which time  
 49 and place any valid reason for not entering such order may  
 50 be offered.

51 A copy of said petition is filed in the office of the clerk of the  
 52 county court of this county.

53 .....  
 54 Superintendent of.....

55 Any number of cases from the same county may be included  
 56 in the same notice.

57 After the notice required by this act shall have been given as  
 58 herein provided, the said public health council, at the time and  
 59 place named therein, with such reasonable continuances from  
 60 time to time and from place to place as the said council may  
 61 determine, shall proceed to hear and consider the said petition  
 62 and the evidence offered in support of and against the same.  
 63 To every such inmate the said council shall appoint a guardian  
 64 *ad litem* who must be present at the hearing to defend the  
 65 rights and interests of such inmate. And the said council shall

66 see to it that such inmate shall have leave and opportunity to  
67 attend the said hearings in person if desired by him, or by  
68 his parent, guardian or committee served with such petition as  
69 aforesaid.

70 The said public health council may receive and consider as  
71 evidence at such hearing the commitment papers and other  
72 records of such inmate in any of the aforesaid state institutions  
73 as certified by the superintendent or superintendents thereof,  
74 together with such other legal evidence as may be offered by any  
75 party to the proceeding. Any member of said council shall  
76 have the power to administer oaths to the witnesses at such  
77 hearings. Depositions may be taken by any party after due  
78 notice as in pending cases and such depositions may be read in  
79 evidence if pertinent to the issue; *provided, however*, that no  
80 deposition shall be read against such inmate, except with the  
81 consent of his guardian *ad litem*, unless it be taken in the pres-  
82 ence of the guardian *ad litem* or upon interrogatories agreed  
83 on by him. The said council shall preserve and keep all record  
84 evidence offered at such hearings, and shall have all oral evi-  
85 dence heard thereat reduced to writing and preserved and kept  
86 with its records. Any party to the proceedings shall have the  
87 right to be represented by counsel at such hearings.

88 The said public health council may deny the prayer of said  
89 petition, or, if the said council shall find that such inmate is  
90 insane, idiotic, imbecile, feeble-minded or epileptic, and by the  
91 laws of heredity is the probable potential parent of socially  
92 inadequate offspring likewise afflicted; that such inmate may  
93 be sexually sterilized without detriment to his or her general  
94 health; and that the welfare of such inmate and of society will  
95 be promoted by such sterilization, it may order such super-  
96 intendent to perform, or to have performed by some competent  
97 physician or surgeon named in such order, upon such inmate,  
98 after not less than thirty days from the date of such order, the  
99 operation of vasectomy if such inmate be a male or of salpingec-  
100 tomy if such inmate be a female.

Sec. 2. From any such order so entered by the said public  
2 health council such superintendent or such inmate, or his  
3 parent, guardian or committee, shall have, within thirty days  
4 after the date of such order, an appeal of right to the circuit  
5 court of the county in which said institution is located, which  
6 appeal may be taken by giving notice thereof in writing to the

7 secretary of said council and to the other parties to such pro-  
8 ceedings. Upon taking such appeal the party taking the same  
9 shall forthwith cause a copy of such petition, notice and evi-  
10 dence and such order of said council to be certified by the  
11 president or secretary of said council, or in their absence by  
12 any other member thereof, to the clerk of such circuit court,  
13 who shall file the same and docket the appeal to be heard and  
14 determined by such court as soon thereafter as may be prac-  
15 ticable. The pendency of such appeal shall stay proceedings  
16 under such order until the appeal shall be determined.

17 Such circuit court upon such appeal may consider the record  
18 of the proceedings before said council, including the evidence  
19 appearing therein, and such other legal evidence as such court  
20 may consider pertinent and proper that may be offered before  
21 the court by any party to the appeal. Before hearing such  
22 appeal the circuit court shall appoint for such inmate a guar-  
23 dian *ad litem* who shall be present at the hearing to defend  
24 and protect the rights and interests of such inmate. Upon such  
25 appeal the circuit court may affirm, revise or reverse, in whole  
26 or in part, the orders of said council appealed from and enter  
27 such order as it deems just and right, which it shall certify to  
28 said council.

Sec. 3. Any party to such appeal in the circuit court may,  
2 within sixty days after the date of such final order therein,  
3 apply for an appeal to the supreme court of appeals, which  
4 may grant or refuse such appeal and shall have jurisdiction  
5 to hear and determine the same upon the record of the trial  
6 in the circuit court and to enter such order as it may find that  
7 the circuit court should have entered. The pendency of such  
8 an appeal in the supreme court of appeals shall operate as a  
9 stay of proceedings under any such order of the said public  
10 health council or of the circuit court until such appeal shall be  
11 determined by the said supreme court of appeals.

Sec. 4. Whenever any such order shall be made as herein  
2 provided by the said public health council, or such circuit court,  
3 or the supreme court of appeals ordering such superintendent  
4 to perform, or to have performed by some competent physician  
4-a or surgeon named therein, such operation of vasectomy upon  
4-b any such male inmate or such operation of salpingectomy up-  
5 on any such female inmate, such superintendent, upon the ex-

6 piration of any stay of proceedings under any such order, shall  
7 be authorized to perform or cause to be performed, and shall  
8 perform, or cause to be performed by the physician or surgeon  
9 named in such order, such operation pursuant to such order.

Sec. 5. Neither any such superintendent nor other person  
2 legally participating in the execution of the provisions of this  
3 act shall be liable either civilly or criminally on account of such  
4 participation.

Sec. 6. Nothing in this act shall be construed to authorize  
2 the operation of castration nor the removal of sound organs  
3 from the body; but this provision shall not be construed so as to  
4 prevent the medical or surgical treatment for sound therapeutic  
5 reasons of any person in this state, by a physician or surgeon  
6 licensed by this state, in such a way as may incidentally involve  
7 the nullification or destruction of the reproductive functions.

Sec. 7. Any guardian *ad litem* appointed by the said public  
2 health council or by a circuit court pursuant to this act to  
3 defend the rights and interests of any inmate of any state in-  
4 stitution named herein in proceedings hereunder shall be paid  
5 by such institution for his services such fee, not exceeding  
6 twenty-five dollars, as may be allowed by the said public  
7 health council, or by the circuit court in case of appeal.

## CHAPTER 5

(Senate Bill No. 51—By Mr. Hugas)

AN ACT to provide for the creation of a state library commission  
and making provision for the establishment of traveling li-  
braries throughout the state.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the  
Governor.]

- |  |   |
|--|---|
| <p>SEC.<br/>1. State library commission created;<br/>terms and sex of members; how<br/>vacancies filled; no compensation<br/>to members; no member to en-<br/>gage in publishing business.</p> | <p>2. Officers of commission; duties of<br/>secretary.<br/>3. Duties of commission; may receive<br/>as gifts or purchase books.<br/>4. Monetary gifts to be paid into the<br/>state treasury; how expended.</p> |
|--|---|

*Be it enacted by the Legislature of West Virginia:*

That a commission of five members is hereby created, to be  
known as the West Virginia library commission, to be constituted  
and appointed as hereinafter provided.

Section 1. The members of said commission shall be ap-

2 pointed by the governor upon the passage of this act, one for  
3 two years, two for three years, and two for four years. There-  
4 after appointments shall be made by the governor for four  
5 year terms. At least two members of the commission shall be  
6 women. All vacancies that may occur by resignation or other-  
7 wise shall be filled by the governor for the unexpired term.  
8 No member of said commission shall be compensated for his or  
9 her services. No member of the commission shall be engaged  
10 or interested in the publishing business.

Sec. 2. The officers of the commission shall be a chairman,  
2 elected from the members thereof, for a term of one year, and  
3 a secretary, who shall be a person trained in modern library  
4 methods, not a member of the commission. The secretary shall  
5 be appointed by the commission and shall serve at the will of  
6 the commission. The commission may establish headquarters  
7 or maintain its office at such point in the state as it may de-  
8 termine.

9 Said secretary shall keep a record of the proceedings of the  
10 commission, have charge of its work in organizing new libraries,  
11 and improving those already established; supervise the work  
12 of the traveling libraries, and in general perform such duties  
13 as may from time to time be assigned to him by the commission.

Sec. 3. The commission shall give assistance, advice and  
2 counsel to all school, state-institutional, free and public libraries,  
3 and to all communities in the state which may propose to es-  
4 tablish libraries, as to the best means of establishing and ad-  
5 ministering them, selecting and cataloging books, and other  
6 details of library management, and may send any of its mem-  
7 bers to aid in organizing such libraries or assist in the improve-  
8 ment of those already established.

9 It may also receive gifts of money, books, or other property  
10 which may be used or held for the purpose or purposes given;  
11 may purchase and operate traveling libraries under such con-  
12 ditions and rules as the commission deems necessary to protect  
13 the interests of the state and best increase the efficiency of the  
14 service it is expected to render the public.

15 It may purchase suitable books for traveling libraries and  
16 distribute them as needed to those persons and places in the  
17 state without adequate public library service. It may collect  
18 books, and other suitable library matter and distribute the same  
19 among state institutions desiring the same.

20 The commission may issue printed material, such as lists and  
 21 circulars of information and in the publication thereof may  
 22 cooperate with other state library commissions and libraries, in  
 23 order to secure the more economical administration of the work  
 24 for which it was formed. It may conduct courses of library  
 25 instruction and hold librarians' institutes in various parts of  
 26 the state.

27 Said commission shall perform such other service in behalf  
 28 of public libraries as it may consider for the best interests of the  
 29 state.

Sec. 4. If any sums of money are received by the commission  
 2 as gifts, they shall be paid into the state treasury and used ex-  
 3 clusively for carrying out the provisions of this act, and paying  
 4 expenses of the commissioners. The commission shall expend  
 5 no sums unless they are available by gift, appropriation or  
 6 otherwise.

## CHAPTER 6

(Senate Bill No. 104—By Mr. Hallanan)

AN ACT relating to the collection, depositing and disbursement  
 of all moneys collected by any state institution or institution  
 under the control of the state, all state officers and all depart-  
 ments of the state government.

[Passed February 27, 1920; in effect from passage. Approved by the Governor.]

- |   |  |
|---|--|
| <p>SEC.<br/>         1. Moneys collected by state institu-<br/>         tions, state officials and depart-<br/>         ments to be paid into the state<br/>         treasury.<br/>         2. Exceptions from provisions of sec-<br/>         tion one; how excepted fund exp-<br/>         ended; report to governor con-<br/>         cerning.</p> | <p>3. Penalties for violation of act.<br/>         4. Funds exempted from provisions of<br/>         sections one and two.<br/>         5. Effective date of act; payment of<br/>         bills during current fiscal year.<br/>         6. Gross amount collected to be paid<br/>         in; payment of costs and ex-<br/>         penses of collection.<br/>         7. Inconsistent acts repealed.</p> |
|---|--|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That all moneys collected by any state institution  
 2 or any institution under the control of the state, from what-  
 3 soever source, and all moneys collected by state officials and all  
 4 departments of the state government, from whatsoever source,  
 5 shall be paid into the state treasury promptly in the same man-  
 6 ner as other moneys are paid into the state treasury, and when  
 7 so paid shall be credited to the state fund and treated by the

8 auditor and treasurer as a part of general revenue of the state  
9 and shall not be used for any purpose whatsoever unless and  
10 until authorized and directed by the legislature in accordance  
11 with the constitutional budget amendment, except as hereinafter  
12 provided.

Sec. 2. There are excepted from the provisions of the pre-  
2 ceding section the following funds: All moneys received out  
3 of appropriations made by the congress of the United States;  
4 all funds derived from sale of farm and dairy products; all en-  
5 dowment funds, bequests, donations, executive emergency funds,  
6 and death and disability funds; all fees and funds collected at  
7 state educational institutions for student activities; all funds de-  
8 rived from collections from dormitories, boarding houses, cafe-  
9 terias, and road camps; all moneys received from counties by in-  
10 stitutions for the deaf and blind on account of clothing for  
11 indigent pupils; all insurance collected on account of losses by  
12 fire and refunds; all funds derived from book stores, and sales  
13 of blank paper and stationery, collections by chief inspector of  
14 audits, moneys collected and belonging to prisoners. All moneys  
15 collected and exempted by this section from the provisions of  
16 section one are to be paid into the state treasury in the same  
17 manner as collections not exempted from the provisions of sec-  
18 tion one, and are to be carried in separate accounts to be used  
19 and expended only for the purposes for which same are author-  
20 ized to be collected by law. All exemption from the provisions  
21 of section one enumerated in section two do not exempt the per-  
22 sons or institutions affected thereby from making an annual  
23 detailed statement to the governor of the state within sixty days  
24 from the close of each fiscal year for transmission to the legis-  
25 lature of the gross receipts and expenditures made for the objects  
26 named.

Sec. 3. Any person violating this act shall be guilty of a  
2 misdemeanor and punished by a fine of not exceeding one  
3 thousand dollars or a jail sentence not exceeding one year or  
4 both, within the discretion of the court, and in addition thereto  
5 shall forfeit whatever office or position he holds in connection  
6 with the state government.

Sec. 4. The provisions of sections one and two of this act  
2 shall not apply to moneys collected and belonging to the capitol  
3 building fund, state road fund, state road sinking funds, general  
4 school fund, the school fund, state fund—moneys belonging to

5 counties, districts and municipalities, state interest and sinking  
6 fund for payment of Virginia debt, state interest and sinking  
7 fund and state compensation funds, fees accruing to the clerk  
8 of the supreme court of appeals.

Sec. 5. This act shall take effect on July one, one thousand  
2 nine hundred and twenty-nine; *provided, however*, that bills  
3 incurred during the fiscal year ending June thirty, one thou-  
4 sand nine hundred and twenty-nine, may be paid at any time  
5 within sixty days after the expiration of said year, in accord-  
6 ance with the provisions of section eight, chapter seventeen of  
7 Barnes' code of one thousand nine hundred and twenty-three.

Sec. 6. The gross amount collected in all cases shall be paid  
2 into the state treasury and commissions, costs and expenses of  
3 collection authorized by general law to be paid out of the gross  
4 collection are hereby authorized to be paid out of the moneys  
5 collected and paid into the state treasury in the same manner  
6 as other payments are made from the state treasury.

Sec. 7. All acts or parts of acts insofar as inconsistent with  
2 this act are hereby repealed.

## CHAPTER 7

(Senate Bill No. 169—By Mr. Hallanan)

AN ACT fixing the fees to be charged by the clerk of the supreme  
court of appeals and to provide for collecting and paying such  
fees into the state treasury, and to fix the salary of said clerk.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the  
Governor.]

### SEC.

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| <p>1. Fees to be charged by clerk of<br/>supreme court of appeals; to be<br/>paid monthly into state treasury.</p> <p>2. System of books and accounts;<br/>monthly report by clerk to audi-<br/>tor.</p> | <p>3. Penalty for violation of preceeding<br/>sections.</p> <p>4. Compensation of clerk and deputy<br/>and assistant clerk.</p> <p>5. Inconsistent acts repealed.</p> |
|--|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That on and after the first day of July, one thou-  
2 sand nine hundred and twenty-nine, the clerk of the supreme  
3 court of appeals shall charge for services rendered as such clerk  
4 the following fees to be paid by the parties for whom the serv-  
5 ices are rendered:

6 For docketing each appeal and original jurisdiction case  
7 brought in the supreme court of appeals, and for all other  
8 necessary services on behalf of the petitioners, plainiffs in  
9 error or appellants, except comparing the record, to and in-  
10 cluding the certification of the final writ or mandate in such  
11 case, to be paid in advance, ten dollars.

12 For entering appearance of respondents, defendants in error  
13 or appellees in each case so brought and for all other necessary  
14 services on their behalf therein to and including the certifica-  
15 tion of the final writ or mandate, to be paid in advance, five  
16 dollars.

17 For all copies of petitions, records, orders, opinions or other  
18 papers, duly compared and attested, or otherwise, thirty-five  
19 cents per legal page.

20 For each certificate under seal of the court, one dollar.

21 For law license, suitable for framing, two dollars and fifty  
22 cents.

22-a The two foregoing paragraphs shall not apply to certified,  
22-b criminal or state cases.

23 For any other work or service not herein enumerated the  
24 clerk of the supreme court of appeals shall charge the fees pre-  
25 scribed in chapter one hundred and thirty-five of the code of  
26 West Virginia, or those prescribed for similar services by clerks  
26-a of circuit courts.

27 The fees to be charged by the clerk of the supreme court of  
28 appeals by virtue of this or any other law on and after the date  
29 mentioned in this section shall be the property of the state of  
30 West Virginia and he shall account for and pay into the state  
31 treasury at least once every month all of such fees by him col-  
32 lected, to the credit of the state fund. This section shall not  
33 apply to fees which accrued previous to the first day of July,  
34 one thousand nine hundred and twenty-nine.

Sec. 2. The system of books and accounts to be kept by the  
2 said clerk of the supreme court of appeals and the form of re-  
3 ports by said clerk shall be prescribed by the state tax commis-  
4 sioner. The said clerk shall within twenty days after the close  
5 of each month make a report for the preceding month, in the  
6 form prescribed as aforesaid to the auditor in which he shall  
7 set out in detail every payment of money made to him as such  
8 clerk and show by whom it was paid and for what purpose, and  
9 shall pay the amount therein appearing to be due to the state

10 into the state treasury; *provided*, that the comparing fees in  
11 any particular case is not deemed due and payable into the  
12 state treasury until within thirty days next after the printed  
13 record is filed in such case.

Sec. 3. Any wilful violation of the preceding sections by the  
2 said clerk of the supreme court of appeals to keep the accounts,  
3 make the reports or pay over the money collected as provided  
4 in this act, shall be deemed a felony, and upon conviction thereof  
5 the party offending shall be fined not more than five thousand  
6 dollars and shall be confined in the penitentiary for a period  
7 of not more than ten years.

Sec. 4. The annual compensation of the clerk of the supreme  
2 court of appeals of West Virginia, beginning July one, one  
3 thousand nine hundred and twenty-nine, in lieu of all other  
4 fees, costs, allowances, compensation, perquisites and income of  
5 whatever kind by virtue of his said office shall be six thousand  
6 dollars, payable in equal monthly installments by warrant of  
7 the auditor upon the treasurer of the state of West Virginia.  
8 There may be one deputy clerk and one assistant clerk whose  
9 combined salaries shall not exceed fifty-five hundred dollars  
10 *per annum* to be appointed with the approval of the court.

Sec. 5. All acts and parts of acts inconsistent with this act  
2 are hereby repealed.

## CHAPTER 8

(Com. Sub. for Senate Bill No. 175—By Mr. Hugus)

AN ACT providing for the creation of the state bridge commission ;  
authorizing said commission to purchase, construct and im-  
prove bridges over and across any navigable river lying wholly  
or partly within the state or forming a boundary of the state ;  
authorizing the issuance of bridge revenue bonds of the state  
payable solely from bridge earnings to pay the cost of such  
bridges and certain improvements thereof ; providing for the  
collection of bridge tolls for the payment of such bonds and  
for the cost of maintenance, operation and repair of the  
bridges ; setting forth the conditions upon which such bridges  
shall become free bridges ; fixing certain powers and duties of  
the state bridge commission ; declaring that no debt of the state  
shall be incurred in the exercise of any of the powers granted  
hereby ; and providing for condemnation.

[Passed March 5, 1929; in effect from passage. Became a law without the approval of the Governor.]

## Sec.

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| <ol style="list-style-type: none"> <li>1. Definitions.</li> <li>2. State bridge commission created; body corporate; number and qualifications of members; terms; oath of office and bond; removal; further qualifications of commissioners, engineers, etc.; when office vacated; organization; authority and salaries of commission; how salaries paid.</li> <li>3. Commission may purchase, with approval of the Governor; toll bridges over navigable rivers in state.</li> <li>4. Before purchase repairs, etc., to be determined by commission.</li> <li>5. Where and how commission may build toll bridges; commission may purchase lands, franchises, etc., for construction of bridge.</li> </ol> | <ol style="list-style-type: none"> <li>6. Use of powers of eminent domain by commission.</li> <li>7. Bridge revenue bonds; rate of interest, form and other provisions concerning; how proceeds expended.</li> <li>8. Trust agreements respecting bonds, etc.</li> <li>9. Powers and duties of commission.</li> <li>10. Provisions concerning toll to be charged; to be paid monthly to state sinking fund commission.</li> <li>11. When tolls to cease.</li> <li>12. Construction of act in relation to state debt.</li> <li>13. Act as alternative method.</li> <li>14. When consent of officer or board not named in act not required.</li> <li>15. Act to be liberally construed.</li> <li>16. Provisions of act separable.</li> </ol> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. As used in this act, the word "bridge" shall be deemed to include all property, rights and franchises relating thereto including approaches; the word "improvements" shall mean such repairs, replacements, additions and betterments of a bridge acquired by purchase as are deemed necessary to place it in a safe and efficient condition for the use of the public, if such repairs, replacements, additions and betterments are ordered prior to the sale of any bonds for the acquisition of such bridge; the term "cost of bridge" as applied to a bridge to be acquired by purchase shall include the purchase price, cost of improvements, financing charges, interest during any period of disuse before completion of improvements, and all other expenses, including legal fees, trustee's fees, traffic estimates and other estimates, which are necessarily or properly incidental to the acquisition or the improvement or the financing; the term "cost of bridge" as applied to a bridge to be constructed shall embrace the cost of construction, the cost of all land, property, rights and franchises acquired which are deemed necessary for such construction, financing charges, interest during construction, and all other expenses, including legal fees, trustee's fees, traffic estimates and other estimates, which are necessarily or properly incidental to the construction or to the acquisition of the necessary land, property, rights and franchises or the financing; the word "commission" shall mean the state bridge commission created by this act, or, if said state

25 bridge commission shall be abolished, any board or officer suc-  
26 ceeding to the principal functions thereof or upon whom the  
27 powers given by this act to said bridge commission shall be given  
28 by law; the term "owner" shall include all individuals, incorpo-  
29 rated companies, societies or associations having any title or  
30 interest in any bridge properties, rights or franchises to be  
31 acquired.

Sec. 2. There shall be, and there is hereby created a commis-  
2 sion to be known as "The State Bridge Commission of West  
3 Virginia," and the same is hereby made a body corporate, and  
4 by that name the commission may sue, and be sued; plead, and  
5 be impleaded; contract and be contracted with, and have a  
6 common seal. The said commission shall consist of three mem-  
7 bers of well known and successful business qualifications, who  
8 shall be appointed by the governor, with the advice and consent  
9 of the senate, not more than two of whom shall belong to the  
10 same political party. The governor shall appoint the said com-  
11 mission as soon as may be after this act becomes effective, and  
12 before the first day of June, one thousand nine hundred and  
13 twenty-nine, and shall designate the chairman thereof at the  
14 time of such appointment and thereafter at his discretion. The  
15 said commissioners shall immediately enter upon their duties  
16 and hold office until the expiration of two, four and six years,  
17 respectively, from the first day of April, one thousand, nine  
18 hundred and twenty-nine, the term of each to be designated by  
19 the governor, but their successors shall be appointed for the  
20 term of six years, excepting that any person appointed to fill a  
21 vacancy shall serve only for the unexpired term, and any com-  
22 missioner shall be eligible for reappointment; *provided*, that  
23 not more than two of the commissioners serving at any time  
24 shall have been appointed from the same political party. The  
25 commissioners, before entering upon their duties, shall take,  
26 subscribe and file with the secretary of state the oath prescribed  
27 by section five of article four of the constitution. The said  
28 commissioners shall each execute a bond, to be approved by the  
29 governor, in the penalty of ten thousand dollars, conditioned  
30 according to law, which bond shall be filed with the secretary  
31 of state, and there preserved and recorded as are other bonds  
32 required of state officials. The governor may remove any com-  
33 missioner in the manner provided by the constitution of this  
34 state. No person while in the employ of, or holding any official

35 relation to any person, firm or corporation selling or furnishing  
36 any materials entering into the construction, improvement,  
37 repair or maintenance of any bridge wholly or partly within the  
38 state, or who is pecuniarily interested therein, as a stockholder  
39 or otherwise, shall hold said office; nor shall the commission  
40 appoint hereunder any person or persons as engineers, superin-  
41 tendants, or foremen sustaining such relation to such person,  
42 firm or corporation; nor shall such engineers, superintendents  
43 or foremen thereafter become in any way connected with or  
44 interested in any such person, firm or corporation while in the  
45 employ of the commission; nor shall any of said commissioners,  
46 or any engineer, superintendent or foreman appointed by the  
47 commission be a candidate for, or hold any public office other  
48 than that of commissioner or of employment under said com-  
49 mission, or be a member of any political committee either while  
50 acting as such commissioner or while holding employment there-  
51 under. In case any of said commissioners, or its servants or  
52 employees shall be a candidate for or hold any other public  
53 office, or shall be a member of any political committee, his office  
54 as commissioner or position as employee, as the case may be,  
55 shall be *ipso facto* vacated.

56 Upon the appointment and qualification of the members of  
57 the commission they shall at once proceed to organize. The  
58 commission shall make necessary rules and regulations for its  
59 own government, shall appoint a secretary-treasurer, and shall  
60 have power and authority to employ engineering, architectural  
61 and construction experts and inspectors and attorneys, and such  
62 other employees as may be necessary in its judgment, and fix  
63 their compensation, all of whom shall do such work as the com-  
64 mission shall direct. Each commissioner shall receive a salary  
65 at the rate of one thousand dollars *per annum*, and the neces-  
66 sary expenses incurred in the discharge of the duties of his  
67 office, to be paid monthly. All salaries and compensation shall  
68 be paid solely from funds provided under the authority of this  
69 act, and the commission shall not proceed to exercise or carry  
70 out any authority or power herein given it to bind said com-  
71 mission beyond the extent to which money has been provided  
72 under the authority of this act.

Sec. 3. The state bridge commission is hereby authorized to  
2 secure by purchase whenever it shall deem such purchase ex-  
3 pedit, but solely by means of or with the proceeds of the

4 bridge revenue bonds hereinafter authorized, any toll bridge  
5 or bridges over and across any navigable river lying wholly  
6 or partly within the state or forming a boundary of the state,  
7 or any such toll bridge or bridges wholly or partly constructed,  
8 of such design or designs and at such locations as shall be ap-  
9 proved by the state road commission and not of other or differ-  
10 ent design or designs nor at other or different location or loca-  
11 tions, or any franchises, permits, and/or contracts for the con-  
12 struction of any such bridge or bridges, upon such terms and at  
13 such prices as may be considered by it to be reasonable and  
14 can be agreed upon between it and the owner thereof, and ap-  
15 proved by the governor, title thereto to be taken in the name  
16 of the state.

Sec. 4. At or before the time any such bridge shall be ac-  
2 quired by purchase by the commission, it shall be the duty of  
3 the commission to determine what repairs, replacements, addi-  
4 tions or betterments will be necessary to place the bridge in  
5 safe and efficient condition for the use of the public, and to  
6 cause an estimate of the cost of such improvement to be made  
7 and submitted to the commission by an engineer or engineers  
8 appointed by the commission; such improvements shall be  
9 ordered by the commission before the sale of any bridge reve-  
10 nue bonds hereinafter authorized for the purchase of the bridge,  
11 and shall be paid for out of the proceeds of such bonds.

Sec. 5. The state bridge commission is hereby authorized to  
2 construct whenever it shall deem such construction expedient,  
3 but solely by means of or with the proceeds of the bridge reve-  
4 nue bonds hereinafter authorized, any toll bridge or bridges  
5 over and across any navigable river lying wholly or partly  
6 within the state or forming a boundary of the state, of such de-  
7 sign or designs and at such place or places as may be approved  
8 by the state road commission, but not of other or different de-  
9 sign, or at other or different places. The commission is hereby  
10 authorized to purchase within this state and within any ad-  
11 joining state, solely from funds provided under the authority  
12 of this act, such lands, structures, rights of way, franchises,  
13 easements and other interests in lands, including lands under  
14 water and riparian rights of any person, railroad or other cor-  
15 poration or municipality or political subdivision, deemed neces-  
16 sary for the construction of any such bridge, upon such terms  
17 and at such prices as may be considered by it to be reasonable

18 and can be agreed upon between it and the owner thereof, title  
19 thereto to be taken in the name of the state.

Sec. 6. Whenever it shall become necessary to condemn  
2 within this state any property for the purpose of making im-  
3 provements of or to any bridge acquired or constructed here-  
4 under or for the purpose of constructing any bridge or portion  
5 thereof hereunder or securing right of way leading to any such  
6 bridge or its approaches, the commission may condemn any  
7 interest, franchise, right of privilege, land or improvement  
8 which may in its opinion be necessary for any such purpose, in  
9 the manner provided by law for the acquisition by this state of  
10 property for similar or other public purposes. The commission  
11 is and shall be further empowered to exercise in this state and  
12 in any adjoining state such powers of eminent domain as may  
13 be conferred upon the commission by any act of congress of  
14 the United States now in force or which may hereafter be  
15 enacted. Title to property condemned shall be taken in the  
16 name of the state. The state shall be under no obligation to  
17 accept and pay for any property condemned and shall in no  
18 event pay for the same except from the funds provided by this  
19 act, and in any proceeding to condemn, such orders shall be  
20 made by the court having jurisdiction of the suit, action or pro-  
21 ceedings as may be just to the state and to the owners of prop-  
22 erty to be condemned, and a bond or other security may be  
23 required by the court securing such owners against any loss or  
24 damage to be sustained by reason of the failure of the state to  
25 accept and pay for the property, but such bond or security  
26 shall impose no liability or debt upon the state as contemplated  
27 by the provisions of the constitution of the state in relation to  
28 state debt.

Sec. 7. The state bridge commission is hereby authorized to  
2 pay the cost as defined hereinabove of any one or more such  
3 bridges by the issuance of bridge revenue bonds, of the state  
4 by a resolution of the commission which shall recite an estimate  
5 by the commission of such cost, the principal and interest of  
6 which bonds shall be payable solely from the special fund herein  
7 provided for such payment. The commission is hereby further  
8 authorized, after any such issue of bonds or simultaneously  
9 therewith, to issue further issues of bonds to pay the cost of any  
10 other one or more such bridges, in the manner and subject to  
11 all of the provisions herein contained as to the bonds first men-

tioned in this section. All such bonds shall have and are hereby declared to have all the qualities of negotiable instruments under the law merchant. Such bonds shall bear interest at not more than six *per centum per annum*, payable semi-annually, and shall mature in not more than twenty-five years from their date or dates and may be made redeemable at the option of the state, to be exercised by the commission, at such price and under such terms and conditions as the commission may fix prior to the issuance of such bonds. The commission shall determine the form of such bonds, including coupons to be attached thereto to evidence the right of interest payments, which bonds shall be signed by the governor and the chairman of the commission, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the *facsimile* signature of said chairman of the commission. In case any of the officers whose signatures appearing on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The commission shall fix the denominations of said bonds, the principal and interest of which shall be payable at the office of the treasurer of the state of West Virginia, at the capitol of said state, or, at the option of the holder, at some bank or trust company in the city of New York to be named in the bonds, either in lawful money or in gold coin of the United States, of or equal to the then current standard of weight and fineness, as may be determined by the commission. The said bonds shall be exempt from taxation by the state of West Virginia or any county or municipality therein. The commission may provide for the registration of such bonds in the name of the owner as to principal alone and as to both principal and interest under such terms and conditions as the commission may determine, and shall sell such bonds in such manner as it may determine to be for the best interest of the state, taking into consideration the financial responsibility of the purchaser and the terms and conditions of the purchase and especially the availability of the proceeds of the bonds when required for payment of the cost of the bridges, such sale to be made at a price not lower than a price which, computed upon standard tables of bond values, will show a net return of six *per centum per annum* to the purchaser upon the amount paid therefor. The

53 proceeds of such bonds shall be used solely for the payment of  
54 the cost of the bridges and shall be checked out by the chair-  
55 man of the commission and the secretary-treasurer thereof and  
56 under such further restrictions, if any, as the commission may  
57 provide. If the proceeds of such bonds by error or calculation  
58 or otherwise shall be less than the cost of the bridge or bridges,  
59 additional bonds may in like manner be issued to provide the  
60 amount of such deficit and, unless otherwise provided in the  
61 trust agreement hereinafter mentioned, shall be deemed to be  
62 of the same issue and shall be entitled to payment from the  
63 same fund, without preference or priority of the bonds first  
64 issued for the same bridge or bridges. If the proceeds of bonds  
65 issued for any bridge or bridges shall exceed the cost thereof,  
66 the surplus shall be paid into the fund hereinafter provided for  
67 payment of the principal and interest of such bonds. Such  
68 fund may be used for the purchase of any of the outstanding  
69 bonds payable from such fund at the market price, but at not  
70 exceeding the price, if any, at which such bonds shall in the  
71 same year be redeemable, and all bonds redeemed or purchased  
72 shall forthwith be canceled and shall not again be issued. Prior  
73 to the preparation of definitive bonds, the commission may  
74 under like restrictions issue temporary bonds with or without  
75 coupons, exchangeable for definitive bonds upon the issuance  
76 of the latter. Such revenue bonds may be issued without any  
77 other proceedings or the happening of any other conditions or  
78 things than those proceedings, conditions and things which are  
79 specified and required by this act or by the constitution of the  
80 state.

Sec. 8. The commission may enter into an agreement or  
2 agreements with any trust company or with any bank having  
3 the powers of a trust company, either within or outside of the  
4 state, as trustee for the holders of bonds issued hereunder,  
5 setting forth therein such duties of the state and of the com-  
6 mission in respect of the acquisition, construction, improvement,  
7 maintenance, operation, repair and insurance of the bridges,  
8 the conservation and application of all moneys, the insurance  
9 of moneys on hand or on deposit and the rights and remedies  
10 of the trustee and the holders of the bonds, as may be agreed  
11 upon with the original purchasers of such bonds, and including  
12 therein provisions restricting the individual right of action of  
13 bondholders as is customary in trust agreements respecting

14 bonds and debentures of corporations, protecting and enforcing  
15 the rights and remedies of the trustee and the bondholders and  
16 providing for approval by the original purchasers of the bonds  
17 of the appointment of consulting engineers and of the security  
18 given by those who contract to make improvements and by any  
19 bank or trust company in which the proceeds of bonds or bridge  
20 tolls shall be deposited, and for approval by the consulting  
21 engineers of all contracts for improvements. All expenses in-  
22 curred in carrying out such agreement may be treated as a part  
23 of the cost of maintenance, operation and repairs of the bridge  
24 or bridges affected by the agreement.

*Powers and Duties of Commission*

Sec. 9. The commission shall properly maintain, repair, op-  
2 erate, manage and control the bridges, fix the rates of tolls and  
3 establish by-laws and rules and regulations for the use and op-  
4 eration of the bridges, and may make and enter into all con-  
5 tracts or agreements necessary and incidental to the perform-  
6 ance of its duties and the execution of its powers under this  
7 act, including power to permit use of such bridges by street  
8 railways and other transportation lines, and telephone, tele-  
9 graph, pipe and other lines, and contract with them for such  
10 use and fix the terms and conditions thereof and the charges or  
11 tolls for such use.

Sec. 10. Tolls shall be fixed, charged and collected for tran-  
2 sit over such bridges and shall be so fixed and adjusted, in re-  
3 spect of the aggregate of tolls from the bridge or bridges for  
4 which a single issue of bonds is issued, as to provide a fund  
5 sufficient to pay the principal and interest of such issue of  
6 bonds and to provide an additional fund to pay the cost of  
7 maintaining, repairing and operating such bridge or bridges,  
8 subject, however, to any applicable law or regulation of the  
9 United States of America now in force or hereafter to be en-  
10 acted or made. *Provided, however,* that in case a single issue  
11 of bonds is issued for the purchase and/or construction of two  
12 or more bridges, such bridges shall be located in whole or in  
13 part in one county of the state. The tolls from the bridge or  
14 bridges for which a single issue of bonds is issued, except such  
15 part thereof as may be necessary to pay such cost of maintain-  
16 ing, repairing and operating during any period in which such  
17 cost is not otherwise provided for (during which period the tolls  
18 may be reduced accordingly) shall be transmitted each month

19 to the state sinking fund commission and by it placed in a  
20 special fund which is hereby pledged to and charged with the  
21 payment of the principal of such bonds and the interest thereon,  
22 and to the redemption or repurchase of such bonds, such special  
23 fund to be a fund for all such bonds without distinction or  
24 priority of one over another. The moneys in such special fund,  
25 less a reserve for payment of interest not exceeding one year's  
26 interest on the bonds, if not used by the sinking fund commis-  
27 sion within a reasonable time for the purchase of bonds for  
28 cancellation at a price not exceeding the market price and not  
29 exceeding the redemption price, shall be applied to the redemp-  
30 tion of bonds by lot at the redemption price then applicable.

Sec. 11. When the particular bonds issued for any bridge  
2 or bridges and the interest thereon shall have been paid or a  
3 sufficient amount shall have been provided for their payment  
4 and shall continue to be held for that purpose, tolls for the use  
5 of such bridge or bridges shall cease except for the cost of main-  
6 taining, repairing and operating such bridge or bridges. There-  
7 after and as long as the cost of maintaining, repairing and  
8 operating such bridge or bridges shall be provided for through  
9 means other than tolls, no tolls shall be charged for transit  
10 thereover and such bridge or bridges shall be free.

Sec. 12. Nothing in this act contained shall be so construed  
2 or interpreted as to authorize or permit the incurring of state  
3 debt of any kind or nature as contemplated by the provisions of  
4 the constitution of the state of West Virginia in relation to state  
5 debt.

Sec. 13. This act shall be deemed to provide an additional  
2 and alternative method for the doing of the things authorized  
3 hereby and shall be regarded as supplementary and additional  
4 to powers conferred by other laws.

Sec. 14. It shall not be necessary to secure from any officer  
2 or board not named in this act any approval or consent or any  
3 certificate or finding or to hold an election or to take any pro-  
4 ceedings whatever, either for the acquisition or construction of  
5 such bridges, or the improvement thereof, or their maintenance,  
6 operation or repair, or for the issuance of bonds hereunder,  
7 except such as are prescribed by this act or are required by the  
8 constitution of the state.

Sec. 15. This act being necessary for the health, welfare and

Sec. 2. Every county court shall pay into the state treasury 2 the sum of fifty dollars per year on account of each girl from 3 the county so committed and transferred to said Fairmont 4 hospital number three, Huntington state hospital, or Welch 5 hospital number one, said payments and collection thereof to 6 be made in the manner prescribed in chapter one hundred and 7 forty-four acts of one thousand nine hundred and twenty-one.

## CHAPTER 11

(House Bill No. 71—By Mr. Hill)

AN ACT to amend and re-enact section one hundred and fifty of chapter forty-five of Barnes' code of one thousand nine hundred and twenty-three, relating to the West Virginia Collegiate Institute.

[Passed February 11, 1929; in effect from passage. Approved by the Governor.]

SEC. 150.	Name changed to "West Virginia State College"; how managed; courses of study in; federal aid		for; how received and used; approval of rules and regulations governing; acceptance of federal aid; other funds for.
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*Be it enacted by the Legislature of West Virginia:*

That section one hundred and fifty of chapter forty-five of Barnes' code of one thousand nine-hundred and twenty-three be amended and re-enacted to read as follows:

### *West Virginia State College.*

Section 150. The institution for the instruction of colored 2 students located at Institute in the county of Kanawha and 3 designated by an act of the legislature of one thousand eight 4 hundred and ninety-one, regular session, chapter sixty-five, as 5 "The West Virginia Collegiate Institute", shall remain where 6 now located and shall be known and designated as "West Vir- 7 ginia State College," and shall have and hold all the property, 8 funds, rights, powers and privileges granted to said institution 9 in said chapter sixty-five of the acts of the legislature of one 10 thousand eight hundred and ninety-one, and all subsequent 11 acts relating thereto. Wherever in any statutes of this state 12 "West Virginia Collegiate Institute" is referred to, such refer- 13 ence shall be construed as a reference to West Virginia State 14 College.

15 Said college shall be under the control and management of

16 the state board of control and the state board of education as  
17 provided herein for other state educational institutions.

18 The state board of education shall establish and maintain in  
19 the West Virginia State College, in addition to the depart-  
20 ments already established, such professional and graduate  
21 schools and college courses of study as may be expedient  
22 and possible and shall prescribe the conditions of graduation  
23 therein and may make rules for conferring degrees and for  
24 issuing the proper diplomas to those who complete such  
25 courses, as in the case of other state educational institutions.

26 West Virginia State College shall have power and authority  
27 to do extension work in agriculture, home economics, and such  
28 other subjects as the state board of education and advisory  
29 council thereto may direct, among the Negro population of  
30 West Virginia.

31 The treasurer of the state is hereby designated as the officer  
32 to receive from the secretary of the treasury of the United  
33 States the said several sums of money to be paid into the  
34 treasury of this state by the federal government for the uses  
35 and purposes named in any grants for said institution. He  
36 shall keep an exact account of the money so received, and  
37 shall place to the credit of each of said beneficiaries thereof  
38 its proportion of the same. The sums so placed to the credit  
39 of West Virginia State College shall be paid out on the order  
40 of the state board of control. And said treasurer shall in-  
41 clude in his biennial report to the governor a statement of his  
42 receipts and disbursements under the provisions of this act.

43 The rules and regulations made by the president and faculty  
44 of said institution for its general government and for the ad-  
45 mission of students thereto, the standards of scholarship to be  
46 maintained therein, and the graduation of students therefrom,  
47 shall be submitted to the state board of education for its  
48 approval.

49 The legislature of the state of West Virginia hereby accepts  
50 for said state, the terms and provisions of the act of congress  
51 of the United States approved August thirtieth, one thousand  
52 eight hundred and ninety, for the objects and purposes men-  
53 tioned and declared therein, and designate "The West Vir-  
54 ginia University," established in pursuance of an act of con-  
55 gress of the United States passed July two, one thousand  
56 eight hundred and sixty-two, and a subsequent act passed by

57 said congress on April nineteenth, one thousand eight hundred and sixty-four, at Morgantown, in the county of Monongalia, in this state, as a beneficiary of said appropriation for the instruction of white students, and "West Virginia State College," for the beneficiary of said appropriation for the instruction of colored students, to be paid to each in the proportion mentioned in chapter sixty-five of the acts of the legislature of one thousand eight hundred and ninety-one, and chapter twenty-seven of the acts of the legislature of one thousand nine hundred and eight. And said institution by the name of "West Virginia State College", shall have and hold all property, funds, rights, powers and privileges herein mentioned.

70 The legislature shall supplement the funds received from the federal government as aforesaid, by making such appropriations from time to time as may be necessary for the further support of West Virginia State College.

## CHAPTER 12

(House Bill No. 119—By Mr. Kyle)

AN ACT to amend and re-enact chapter forty-nine, of the acts of one thousand nine hundred and twenty-three, relating to an employment bureau and providing for licensing and inspection of employment agents.

[Passed February 26, 1929: in effect ninety days from passage. Approved by the Governor.]

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| <p>Sec.<br/>1. State public employment bureau: purpose of.</p> <p>2. Co-operation with federal government.</p> <p>3. Duty of commissioner of labor concerning.</p> <p>4. "Employment agent" defined.</p> <p>5. Prohibiting false statements.</p> <p>6. Employment agent licensed for.</p> <p>7. Expiration of license.</p> <p>8. License issued to citizens of United States only.</p> <p>9. When license may be refused.</p> <p>10. When license shall be revoked.</p> | <p>11. Record to be kept by employment agent.</p> <p>12. Posting of license; schedule of fees.</p> <p>13. Power of commissioner of labor concerning.</p> <p>14. No employment in violation of child labor or school laws.</p> <p>15. Violation of this act by employment agency; penalty.</p> <p>16. Supervision of employment agents by commissioner of labor.</p> <p>17. Exemptions from provisions of this act.</p> <p>18. Repealing inconsistent acts.</p> |
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*Be it enacted by the Legislature of West Virginia:*

That chapter forty-nine acts of one thousand nine hundred and twenty-three, be amended and re-enacted to read as follows:

Section 1. The commissioner of labor shall maintain in  
2 connection with the bureau of labor, a public bureau to be  
3 known as the "state public employment bureau," for the  
4 purpose of receiving and filing applications of persons seek-  
5 ing employment and of persons or firms seeking to employ  
6 labor. There shall be no fee or compensation charged or re-  
7 ceived, directly or indirectly, from persons applying for  
8 employment or from those desiring to employ labor through  
9 said service.

Sec. 2. The commissioner of labor may accept co-operation  
2 from the federal government in the establishment and main-  
3 tenance within the state of such employment bureau.

Sec. 3. It shall be the duty of the commissioner of labor  
2 to communicate with employers of labor, and the said com-  
3 missioner is authorized to advertise or use such other methods  
4 and means as he deems practicable to supply the demand of  
5 employers and to provide employment for those who have filed  
6 their applications with the employment bureau.

Sec. 4. The term "employment agent" shall mean and in-  
2 clude all persons, firms, corporations or associations excepting  
3 municipal corporations, church and charitable associations  
4 which furnish to persons seeking employment, information en-  
5 abling or tending to enable such persons to secure the same,  
6 or which furnish employers seeking laborers or help of any  
7 kind, information enabling or tending to enable such employ-  
8 ers to secure such help, or shall keep a register of persons  
9 seeking employment or help as aforesaid, whether such agents  
10 conduct their operations in a fixed place of business, on the  
11 streets, or as transients, and also whether such operations  
12 constitute the principal business of such agents or only as a  
13 side line or incidental to other business.

Sec. 5. No person, firm, association or corporation or any  
2 employee or agent thereof, shall make any false statement to  
3 any person seeking employment knowing the same to be  
4 false, in regard to any employment, work or situation, its  
5 nature, location, duration, wages or salary attached thereto, or  
6 the circumstances surrounding said employment, work or  
7 situation. No employment agent shall falsely or fraudulently  
8 offer or represent himself as in a position to secure or furnish  
9 employment without having an order therefor, from an em-

10 ployer; and no employment agent shall misrepresent any  
11 other material matter in connection with any employment,  
12 work or situation he may offer or represent himself in a posi-  
13 tion to secure, nor shall he withhold any information furnish-  
14 ed by the employer concerning any work. The term "com-  
15 missioner" shall mean the commissioner of labor.

Sec. 6. No person, firm, corporation or association shall  
2 engage in the business of an employment agent for profit or  
3 receive any fee, charge commission or other compensation,  
4 directly or indirectly, for services as employment agent, with-  
5 out first having obtained a license therefor from the state tax  
6 commissioner. Said license shall constitute a license from the  
7 state to operate as an employment agent for compensation  
8 and shall not be transferable. Such employment bureau or  
9 labor agencies as receive application and hire laborers for  
10 employment within the state shall pay to the state tax com-  
11 missioner an annual license tax of two hundred dollars. Such  
12 employment bureaus or labor agencies that hire or contract  
13 with laborers for employment without the state or arrange  
14 for the transportation of such laborers to points without the  
15 state for employment in another state, shall pay to the state  
16 tax commissioner an annual license tax of five thousand  
17 dollars.

Sec. 7. Each employment agent's license issued by the  
2 state tax commissioner shall expire on the thirtieth day of  
3 June, next, following the date on which it was issued and  
4 shall not be transferable.

Sec. 8. License to operate as an employment agent shall  
2 be issued only to citizens of the United States.

Sec. 9. The state tax commissioner shall refuse to issue  
2 a license if, upon investigation, he finds that the applicant is  
3 unfit to engage in the business or has had a license previously  
4 revoked, or that the business is to be conducted on or imme-  
5 diately adjoining what is considered by him to be unsuitable  
6 premises, or that any other good reason exists within the  
7 meaning of the law.

Sec. 10. The state tax commissioner shall revoke any  
2 license issued under the provisions of this act, with or with-  
3 out hearing, and may order such license to be returned for  
4 cancellation if the employment agent has violated any of the

5 provisions of this act or the rules and regulations issued there-  
6 under or if any cause appears for which a license might have  
7 been refused. The commissioner of labor shall co-operate with  
8 the state tax commissioner in the issuance and revocation of  
9 such licenses.

Sec. 11. A record of all men directed to employment shall  
2 be kept by every employment agent; such records shall set  
3 forth the name, age, nationality and material state of each  
4 applicant, and also the name of the employer, kind of work  
5 and pay. A copy of this record shall be forwarded to the  
6 commissioner of labor for each month and shall be furnished  
7 on or before the tenth day of the month immediately suc-  
8 ceeding.

Sec. 12. Every employment agent shall keep conspicuously  
2 posted in his office or place of business the license issued  
3 under this act. A copy of the schedule of all fees is required  
4 to be filed with the commissioner of labor and other notices  
5 or information that the commissioner may direct and in such  
6 form and manner as he may prescribe.

Sec. 13. For the purpose of enforcing this act and the  
2 rules and regulations issued thereunder, the commissioner of  
3 labor or his duly authorized agent, may enter any employ-  
4 ment office, or place of business of an employment agent and  
5 inspect the registers, cards or other records of such employ-  
6 ment agent. In the performance of the duties herein re-  
7 quired by law, the commissioner of labor or his agent may at  
8 any time enter any premises occupied or used as an employ-  
9 ment office.

Sec. 14. No employment agent shall furnish employment  
2 to any child in violation of the law regulating the labor of  
3 children or their compulsory attendance at school.

Sec. 15. Any person, co-partnership, association or corpor-  
2 ation carrying on the business of an employment agency as  
3 defined in this act without first fully complying with the pro-  
4 visions thereof, shall be deemed guilty of a misdemeanor, and  
5 shall, upon conviction thereof be fined not less than one  
6 hundred dollars nor more than five hundred dollars for each  
7 offense, or any such person may be imprisoned not less than  
8 thirty days nor more than six months, or both, at the dis-  
9 cretion of the court. Any justice of the peace shall have con-

10 current jurisdiction with circuit court and other courts having  
11 criminal jurisdiction in his county for the trial of offenses  
12 under this act.

Sec. 16. The commissioner of labor shall prescribe such  
2 rules and regulations as may be necessary for the supervision  
3 of employment agents.

Sec. 17. Nothing contained in this act shall apply to, nor  
2 prevent or interfere with, any person, firm, corporation or as-  
3 sociation employing labor for his, their or its business car-  
4 ried on in this state.

Sec. 18. All acts and parts of acts inconsistent with this  
2 act are hereby repealed.

## CHAPTER 13

(House Bill No. 200—By Mr. Kyle)

AN ACT to create a game, fish and forestry commission; to provide for the appointment of game protectors; to protect, regulate the taking and propagation of game animals, fur bearing animals, game fish and frogs and game birds and fowls; to protect our forests; to raise revenue for these purposes by direct and license taxes; to provide penalties for violations of the provisions thereof; to amend and re-enact chapter one hundred sixteen of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one, as amended by chapter sixty-five of the acts of the legislature of nineteen hundred twenty-five, and by chapter forty-three of the acts of the legislature of nineteen hundred twenty-seven, and repealing certain sections thereof.

[Passed March 9, 1920; in effect July 1, 1920. Approved by the Governor.]

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| <p>Sec.<br/>1. Department of game, fish and forestry; divisions.<br/>2. Department under control of commission; members, terms.<br/>3. Oath and bond.<br/>4. Travelling and other expenses of commission.<br/>5. Office and chairman of commission.<br/>6. Commission to establish rules and regulations.<br/>7. Commission to have entire control of fish and game, licenses and enforcement of protective laws.<br/>8. Commission to control open and</p> | <p>closed seasons; publication of notice of change.<br/>9. Commission to keep records and make report to governor.<br/>10. Commission to appoint game protectors and fix salaries.<br/>11. Oath of game protectors.<br/>12. Powers of game protectors.<br/>13. License to game protectors to carry revolver.<br/>14. Sheriffs and other officers invested with powers of game protectors.<br/>15. Right of search by game protectors.<br/>16. Right of game protectors to make</p> |
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- arrests and serve process.
17. Title to fish and game to remain in name of state.
  18. Definition of open and closed seasons.
  19. Hunting, fishing or possession of fire arms by aliens prohibited.
  20. Penalty for hunting on Sunday.
  21. Destruction of unlawful hunting or fishing paraphernalia.
  22. Unlawful hunting, fishing or etc., without written permission of owner; signs required; penalties for violation; arrests by owner.
  23. Commission's rights for purpose of propagation, etc.; permits to others.
  24. Opening and closing of streams and open seasons for game by commission; penalties.
  25. Unlawful transportation of game and fish beyond limits of state; exceptions as to non-resident licensee.
  26. Unlawful purchase or sale of game and fish.
  27. Unlawful employment of others to hunt or fish.
  28. Unlawful sale to hotel, etc. of fish or game.
  29. Unlawful killing, etc., of red fox; counties excepted; owners may kill at anytime on own lands; penalties.
  30. Bounties for wild non-game animals.
  31. Further penalties.
  32. Definition of game animals.
  33. Provisions as to killing elk; penalty.
  - 34-35. Provisions as to killing deer; penalty.
  36. Provisions as to killing rabbits.
  37. Provisions as to killing squirrels.
  38. Closed season on raccoon and skunk.
  39. Closed season on o'possum.
  40. Closed season on beaver.
  41. Closed season on otter.
  42. Closed season on muskrat.
  43. Spotlights prohibited, exceptions; cutting of certain trees and killing game animals from certain conveyances prohibited.
  44. Unlawful to own or possess ferrets.
  - 45-47. Provisions as to snares or traps.
  48. Further penalties.
  49. Killing of dogs chasing sheep.
  50. Owner of dog chasing sheep liable for damages; how obtained; penalties.
  51. When owner to kill dog; procedure on refusal.
  52. Penalties for violations of three preceding sections.
  53. Definition of game birds and fowls.
  54. Provisions as to migratory game birds; limitation on killing of ducks, geese, swans and brant.
  55. Closed season on wood duck.
  56. Provisions as to killing wild turkeys.
  57. Provisions as to killing ruffed grouse.
  58. Provisions as to killing quail.
  59. Closed season on foreign game birds.
  60. Unlawful to kill song birds.
  61. Taking of certain game birds by bait, trap, etc., prohibited.
  62. When unlawful to destroy nest or eggs of wild birds.
  63. Unlawful to kill or possess or sell certain wild birds.
  64. Further penalties.
  65. Definition of game fish; lawful length of fish.
  66. Closed season on fish and frogs.
  67. Limitation on catch of bass or trout.
  68. Provisions as to use of seines, nets, electricity, lime, gun, etc., in taking fish.
  69. Provisions as to pollution of water course; penalty.
  70. Commission may establish fish hatcheries.
  71. Commission may designate certain streams for propagation of certain species of fish.
  72. License for propagation of game, etc.
  73. Form of application for license for propagation.
  74. Licenses to establish pond or divert water; what application for to show.
  75. No dam, etc., to prevent free passage of migratory fish; penalty.
  76. Rights of persons licensed to carry on propagation, etc.
  77. Licensee to furnish invoice of sale.
  78. Licensee to file report with commission.
  79. Restriction on rights of licensee; penalty.
  80. Further penalty; penalty for killing fish by dynamite.
  81. Hunting and fishing licenses; when not required of land owner.
  82. Fee for combination hunting and fishing license; big game license, resident and non-resident fees; fees and territory covered by.
  83. How licenses secured.
  84. Clerk to deliver license and tag.
  85. License valid for calendar year.
  86. Alteration, sale or transfer of license prohibited.
  87. When license to be exhibited.
  88. When person hunting or fishing to exhibit license.
  89. Carrying of uncased gun *prima facie* evidence of hunting.
  90. When commission may notify clerk of county court to refuse license; penalty for issuing after notice; revocation of licenses by commission; duty of licensee upon revocation.
  91. License fees to be paid to commission and by it to state treasurer; how credited and expended.
  92. Fund for game refuges and public shooting grounds; fund for bounties; fund for fish batcheries; fund for buying deer.
  93. Further penalties.
  94. Fund for buying game refuges; by

- or purchase title to vest in state.
95. Provision for establishment and control of game refuges and public shooting grounds.
  96. When commission may establish game refuge and public shooting grounds with consent of owner.
  97. When commission may establish fish or frog refuge with consent of owner.
  98. Penalty for violation of three preceding sections.
  99. Protection of forests; qualification and salary of chief forester; per diem of local forest protectors.
  100. Oath of chief forester.
  101. Appointment of local forest protectors; their powers and duties; penalty for refusing to assist, when summoned.
  102. County court to pay cost of fire fighting.
  103. Penalty for failure to extinguish fire or negligently or wilfully setting woods on fire.
  104. Duties of operators of locomotives as to fire protection; railroad employees to report fires; penalties.
  105. Recovery by commission of cost of extinguishing fire.
  106. Appropriation to meet requirements of Weck's Law and Clark-McNary Law.
  107. Patrol lookout stations; *per centum* of moneys received from county used for re-stocking.
  108. Owner of timber land to provide fire patrol.
  109. When owner fails, commission may establish patrol; cost of, how collected.
  110. What deemed adequate protection of tract by owner.
  111. Total cost of protection not to exceed one cent per acre per annum.
  112. Definition of timber land.
  113. Civil liability of owner for fire damage.
  - 114-115. Right of steam railroad company to clear land adjacent to right-of-way; procedure upon notice of intention.
  116. What constitutes *prima facie* evidence of negligence concerning fire.
  117. Provisions concerning purchase of lands for parks or game and fish refuges by commission.
  118. Protection of parks and refuges by commission.
  119. Commission to investigate certain water sheds and report to governor lands suitable for forests and refuges.
  120. Commission may institute proceedings and employ attorney to prosecute violations of act.
  121. Commission may offer reward for violations of act.
  122. Justices of the peace to have concurrent jurisdiction of misdemeanors.
  123. Penalty for interfering with game protectors, etc.
  124. Penalty for violations for which punishment is not prescribed.

*Be it enacted by the Legislature of West Virginia:*

That chapter one hundred sixteen of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one, as amended by chapter sixty-five of the acts of the legislature of one thousand nine hundred and twenty-five and by chapter forty-three of the acts of the legislature of West Virginia, one thousand nine hundred and twenty seven, be amended, re-enacted and enlarged to read as follows:

*Article I. Game, Fish and Forestry Department and Commission.*

Section 1. A state department of game, fish and forestry shall be maintained for the conservation, protection and propagation of wild animals, wild birds and fowls, fish and frogs, and for the conservation and protection of the forests of the state against injury or destruction by fires, insects, fungus or other diseases and for forest culture. The department shall consist of a division of game and fish and a division of forestry, under the charge of a chief game protector and a chief forester, respectively.

Sec. 2. The state department of game, fish and forestry shall be under the control, charge and management of a commission known and designated as "West Virginia Game, Fish and Forestry Commission", which shall be composed of three members, who shall be citizens of this state, appointed by the governor, by and with the advice and consent of the senate, no two of whom shall be residents of the same senatorial district. The commission shall supervise the work of the divisions, and shall have charge of the administration and enforcement of all laws which it is the duty of the commission to administer and enforce, and shall direct all inspections and investigations.

The members of the game and fish commission of West Virginia in office on the date this code takes effect shall, unless sooner removed, continue to serve as members of the game, fish and forestry commission until their respective terms expire and their successors have been appointed and have qualified. Beginning on the first day of July, nineteen hundred and thirty, and on the first day of July of each year thereafter, a member shall be appointed to serve for a term of three years beginning on said first day of July. Any commissioner shall be eligible for reappointment. A vacancy in office shall be filled by appointment by the governor for the unexpired term.

Sec. 3. Before entering upon the discharge of his duties, each commissioner shall take the oath described in section five of article four of the constitution of this state, and shall give bond in the sum of two thousand dollars for the faithful performance and discharge of his duties as commissioner, and in case a surety company executes such bond the premium therefor shall be paid out of the funds of the commission.

Sec. 4. The commissioners shall receive no salary or other compensation for their services, but shall be allowed and paid their actual necessary expenses in travelling and other personal expenses incurred in the performance of their duties; *provided*, that in no case shall such total amount so allowed for travelling and other personal expenses exceed in any one year the sum of fifteen hundred dollars for all of the commissioners. No expense account shall be paid unless a statement of the items thereof together with the time

10 of expenditure and the person or persons by whom expended  
11 shall be certified by at least two members of the commission  
12 to be a true statement of money actually expended, at the  
13 times designated for travelling and other personal expenses in  
14 the performance of duty as such commissioners.

Sec. 5. The commission shall maintain an office at the  
2 capitol of the state. It may rent an office adequate for its  
3 purposes, furnish the same, secure necessary supplies for the  
4 keeping of its records and the conduct of its business, and  
5 may employ with the right to remove summarily, such number  
6 of clerks as are necessary.

7 The commission shall annually, at the first meeting held  
8 after the first day of January, choose a chairman who shall  
9 serve as such for one year from the date of his election, or  
10 until his successor has been elected and has qualified.

Sec. 6. The commission shall make such rules and regu-  
2 lations, not inconsistent with law, as are necessary to regulate  
3 its proceedings and to carry out the purposes and enforce  
4 the provisions of this chapter.

Sec. 7. The commission shall in addition to the duties  
2 hereinafter specifically prescribed, have entire charge, con-  
3 trol and supervision of fish, frogs, wild animals, wild birds  
4 and wild fowl of the state, the conduct, control, operation  
5 and management of all state wild birds, wild fowl, wild game,  
6 farms, reserves, refuges and public shooting grounds, fish  
7 hatcheries, reserves and refuges, and all other fish, frog,  
8 wild game, wild birds and fowl, plant and places now or  
9 hereafter to be established in the state for the propagation  
10 of fish, frogs, wild game and wild birds and fowls. It shall  
11 supervise and direct the granting and the cancellation or  
12 revocation of all game and fish hunting or other licenses pro-  
13 vided by this chapter to be granted, and the payment, col-  
14 lection and expenditure of all moneys derived from such  
15 licenses and otherwise collected or appropriated for the  
16 operation of the department of game, fish and forestry. It  
17 shall supervise, direct and have charge of the enforcement  
18 of all laws enacted for the propagation, preservation, con-  
19 servation, protection and distribution, or in relation to the  
20 pursuit, hunting, capturing and killing of the fish, frogs,  
21 wild animals, wild birds and wild fowl of the state; and do  
22 and perform all acts and things expressly provided or implied

23 to be done by the commission under the provision of this  
24 chapter or by law.

Sec. 8. The commission shall also have the power when  
2 it is deemed necessary to protect game animals, fur bearing  
3 animals, fish and frogs, game birds and fowls and forests,  
4 to modify and change the dates for the opening and closing  
5 of the open season on such animals, birds, fish and frogs; and  
6 to modify and change the bag limits on game animals, birds,  
7 fish and frogs. Before any such change in the open season  
8 on bag limits is made effective, the commission shall have  
9 published, in two papers of general circulation throughout  
10 the state, not later than two weeks in advance of the date the  
11 change shall become effective, notice of the same. Any  
12 such change shall apply uniformly in all counties of the  
13 state.

Sec. 9. The commission shall keep records of all its  
2 acts and doings in relation to its duties and shall preserve  
3 the same at its office. It shall keep its financial records and  
4 books in the manner to be prescribed by the public accounting  
5 department of the state, and shall submit same to said ac-  
6 counting department for inspection at such time as the  
7 department may require.

8 The commission shall make a report to the governor not  
9 later than the first day of September of each uneven year,  
10 or oftener if required by the governor, of the conduct of  
11 its affairs during the preceding two years, including a state-  
12 ment of receipts and disbursements, a budget of its probable  
13 expenditures during the succeeding two years, and such  
14 recommendations as the commission may desire to make in  
15 relation to the matters within its duties and purposes.

*Article II. Game Protectors.*

Sec. 10. The commission shall have power and author-  
2 ity to appoint a chief game protector and other competent  
3 men who shall be designated game protectors, not less than  
4 one protector for each county of the state, each of whom shall  
5 hold office at the pleasure of the commission. The commission  
6 may at its discretion, with or without cause, summarily remove  
7 any person appointed by it and fill such vacancy so created by  
8 removal. The commission shall fix the salary to be paid to the  
9 chief game protector and the compensation of the game protec-  
10 tors.

Sec. 11. Before entering upon the discharge of their 2 duties the chief game protector and the game protectors shall 3 each take, sign and execute the oath of office prescribed in 4 section five of article four of the constitution of this state. The 5 oath may be administered to the chief game protector and 6 game protectors by any commissioner or any other person 7 authorized by law to administer oaths, and all such written 8 obligations shall be returned to, and filed with the commission.

Sec. 12. The chief game protector and the game pro- 2 tectors and all other officers of the state of West Virginia, 3 while engaged in the enforcement of the provisions of this 4 chapter, shall be under the supervision and direction of the 5 commission. The chief game protector and the game pro- 6 tectors shall have full power and authority to execute and 7 serve any warrant, notice or any process of law issued under 8 this chapter or any law enacted relating to game animals, 9 fish, frogs, wild birds and wild fowls and forests, issued by 10 any justice of the peace or by any court having jurisdiction 11 thereof, in the same manner, with the same power and author- 12 ity, and to and with the same legal effect, as any constable 13 or sheriff can serve or execute such warrant, notice or process. 14 They may arrest on sight, without a warrant or other court 15 process, any person or persons detected by them in the viola- 16 tion of any of the provisions of this chapter or of any law 17 of this state relating to game animals, fish, frogs, wild birds 18 and fowls, and forests; and shall, under the supervision and 19 direction of the commission, do all things necessary to prop- 20 erly carry into effect the provisions of this chapter.

Sec. 13. The authority, powers and duties of the chief 2 game protector and game protectors shall be state wide, and 3 after they are appointed as such, each can obtain from the 4 circuit court of the county of his residence a license to carry 5 a pistol or revolver by giving bond in the sum of thirty-five 6 hundred dollars, conditioned as provided in section seven, 7 chapter one hundred forty-eight of the code, and no notice 8 or application, except the presentation of his commission as 9 such game protector, shall be required of him before such li- 10 cense is granted.

Sec. 14. The sheriffs and constables in the several coun- 2 ties of the state, and police officers of any city, and mem- 3 bers of the department of public safety, hereinafter called

4 state police, shall be vested, within their respective juris-  
5 dictions, with all the powers and authority of game pro-  
6 tectors, but no oath shall be required by such sheriffs,  
7 deputy sheriffs, constables, state police or police officers, and  
8 each shall, after making an arrest or executing other court  
9 process under the provisions of this chapter, report the same  
10 to the commission.

Sec. 15. The chief game protector and game protectors,  
2 including such sheriffs, deputy sheriffs, constables, state police,  
3 and police officers, while engaged in the enforcement of any  
4 of the provisions of this chapter, shall have the power, in  
5 manner provided by law, to search and examine any boat,  
6 vehicle, automobile, conveyance, express or railroad cars,  
7 fish box, fish bucket or creel, game bag or game coat, or any  
8 other receptacle in which game birds, game animals, fish or  
9 frogs could be packed, concealed or conveyed, whenever they  
10 have reason to believe that they will hereby secure or discover  
11 evidence of the violation of any provision of this chapter,  
12 and such officers shall have, in manner provided by law, the  
13 same right to execute a search warrant as is now conferred  
14 upon sheriffs, in their respective counties.

Sec. 16. Any of the officers herein mentioned, whose  
2 duty it is to enforce the provisions of this chapter, shall have  
3 the same right and powers as sheriffs have in making arrests,  
4 seizures or executing any warrants, notices or court process.

### *Article III. General Provisions Respecting Game and Fish.*

Sec. 17. The ownership of, and the title to, all wild  
2 game, wild birds, both resident and migratory, and all fishes  
3 and frogs in the state of West Virginia, are hereby declared  
4 to be in the state, and no such game birds, fish or frogs shall  
5 be taken or killed in any manner, or at any time except the  
6 person so taking or killing the same shall consent that the  
7 title thereto shall be and remain in the state of West Vir-  
8 ginia, for the purpose of regulating the use and disposition  
9 of the same after such taking or killing. The taking or  
10 killing of wild game, birds, fishes, or frogs at any time or  
11 in any manner by any person, shall be deemed a consent of  
12 such person that the title thereto shall be and remain in  
13 the state, for the purpose of regulating the use and dispo-  
14 sition of the same. But nothing herein contained shall make

15 unlawful the bringing in of game or fowl acquired lawfully  
16 in another state.

Sec. 18. The words "closed season," as used in this  
2 chapter, shall mean the time or period during which it is  
3 unlawful to hunt, pursue, catch, shoot, wound, trap or destroy  
4 any animal or bird, or fish for, or catch any fish, and the  
5 words "open season," as used in this chapter, shall mean the  
6 time or period during which it shall be lawful to take these  
7 animals, birds and fish, as specified and limited by law.

Sec. 19. No person, not a citizen of the United States  
2 of America, shall at any time hunt, pursue, kill or catch any  
3 wild animals or wild birds or wild fowl in this state, or have  
4 in his possession firearms of any kind, or fish for, capture,  
5 catch or kill any fish, frogs or turtles in this state.

Sec. 20. It shall be unlawful to hunt, catch, kill or in-  
2 jure, or pursue with intent to catch, kill, or injure any game  
3 animals, game birds, game fowl, or any other animal or  
4 bird or fowl protected under the provisions of this chapter,  
5 on the first day of the week commonly known as Sunday,  
6 and any person violating any provision of this section  
7 shall be guilty of a misdemeanor and upon conviction ther-  
8 of fined not less than ten nor more than one hundred  
9 dollars for each offense, or by confinement in jail not less  
10 than ten or more than one hundred days or by both fine  
11 and imprisonment within the limitations aforesaid.

Sec. 21. It shall be unlawful for any person to have  
2 in his possession or about his premises any hunting or fishing  
3 paraphernalia, such as fish traps, nets and seines over legal size,  
4 which cannot be lawfully used during the open season for hunt-  
5 ing or fishing, and it shall be obligatory for any game pro-  
6 tector or conservator of the peace, at any time, to remove and  
7 destroy such hunting or fish paraphernalia, whenever found in  
8 this state, and the person or persons claiming ownership or  
9 possession thereof shall have no recourse at law against the  
10 party destroying the same.

Sec. 22. It shall be unlawful for any person to shoot, hunt,  
2 fish or fowl upon the grounds or lands of another person, or to  
3 camp, peel trees or timber, build fires or do any other act or  
4 thing thereon in connection with or auxiliary to shooting,  
5 hunting, fishing or fowling on the lands of another person  
6 without permission in writing from the owner, lessee

7 or other person entitled to the possession of such lands, or  
8 the tenant or agents of such owner, lessee, or person entitled  
8-a to the possession thereof, duly authorized to give such writ-  
9 ten permission, and every person hunting, fishing, shooting or  
10 fowling upon such lands shall have such written permission  
11 with him so doing; *provided, however*, that the owner of such  
12 unenclosed lands shall have erected and maintained signs or  
13 placards legibly printed, easily discernable, conspicuously  
14 posted and reasonably spaced, so as to indicate the territory in  
15 which hunting or fishing is prohibited. Any person violating  
16 any of the provisions of this section shall be deemed guilty  
17 of a misdemeanor and upon conviction thereof shall be fined  
18 not less than ten dollars nor more than fifty dollars, in the dis-  
19 cretion of the justice, or be confined in the county jail not more  
20 than thirty days; and if any person be convicted a third time  
21 of such offense, he shall be confined in the county jail for a  
22 period of not less than sixty days in addition to any fine  
23 imposed, and in all cases he shall be confined in the county  
24 jail until such fine and costs are paid; *provided*, that such  
25 time shall not exceed sixty days. It shall be lawful for the  
26 owner, lessee, or the person entitled to the possession of such  
27 lands or the agent thereof, to arrest any such person found  
28 violating this section and immediately take him before a jus-  
29 tice of the peace for trial, and such owner, lessee, person or  
30 agent is hereby vested with all the powers and rights of a  
31 game protector for such purpose; and it is hereby made the  
32 duty of the game protector to see that this section is en-  
33 forced, if requested so to do by such owner, lessee, person or  
34 agent, but not otherwise.

Sec. 23. The state, game, fish and forestry commission  
2 may hunt, capture and maintain in captivity, at any time,  
3 for the purpose of propagation, protection and distribution  
4 any of the game animals, fur bearing animals, game birds,  
5 game fowls, fish or frogs or any of the wild animals, wild  
6 birds and wild fowls of this state.

7 The commission may issue permits to any person for  
8 similar purposes, when satisfied that such person desires to  
9 exercise such privilege exclusively for scientific or propagat-  
10 ing purposes. Such permit shall be in writing and shall  
11 state the number and kind of animals, birds, fowls, fish or  
12 frogs to be taken, the purpose and manner of taking, and

13 the name and place of residence of the person to whom is-  
14 sued, and shall be signed by the chief game protector. Such  
15 permit shall not be transferable and shall expire on the  
16 thirty-first day of December following the date of issue.  
17 It shall be unlawful to sell or barter any of the animals, birds,  
18 fowls, fish or frogs taken under such permit. A fee of one  
19 dollar shall accompany each application for a permit. The  
20 owner of such permit shall furnish the chief game protector,  
21 upon the demand of the latter, with a detailed list of all  
22 animals, birds, fowl, fish or frogs captured.

Sec. 24. The commission shall have the power, by a  
2 proper order made and entered in its record book, to limit or  
3 suspend, for a fixed and definite period, or change the dates  
4 of, the open seasons for the catching of fish in any stream  
5 or part of a stream in this state. The order shall definitely  
6 fix such stream by a proper description and shall state therein  
7 the period of such suspension. Before such suspension shall  
8 become effective, the commission shall give notice thereof by  
9 the publication of such order once a week for two successive  
10 weeks in the newspapers of the county, or of each county,  
11 wherein such stream is located.

12 The commission shall have the power, by a proper or-  
13 der made and entered in its record book, to limit or suspend,  
14 for a definite and fixed period, the open season for the killing  
15 of any of the game animals or birds mentioned in this chapter  
16 in any county in this state, but not to exceed one year at a  
17 time. Such order shall state the period of such suspension  
18 and name the birds and animals, the killing of which is  
19 prohibited. Before such suspension shall become effective,  
20 the commission shall give notice thereof by the publication of  
21 such order in two papers of general circulation throughout  
22 the state at least once in each week for two successive weeks  
23 before the date of the beginning of such suspension.

24 When the commission shall have entered any such order  
25 and given the notice required herein, then any one fishing  
26 in such streams or hunting or killing any of the animals or  
27 birds, the killing of which is prohibited at any time by this  
28 chapter, shall be guilty of a misdemeanor, and upon conviction  
29 thereof, shall be punished as provided in section thirty-one of  
30 this article.

Sec. 25. No person shall at any time transport or kill  
2 or have in his possession with the intention of transporting  
3 beyond the limits of the state, any elk, deer, quail,  
4 pheasant, ruffed grouse, wild turkey, squirrel, wild  
5 duck or wild geese, or any part thereof, or any game fish or  
6 frogs killed, caught or captured within this state. *Provided,*  
7 *however,* that a non resident licensee may take with him per-  
8 sonally, when leaving the state, any game animals or game  
9 birds that he has lawfully taken or killed, not exceeding dur-  
10 ing the season, the number that any person may lawfully  
11 take or kill in any one day.

Sec. 26. It shall be unlawful for any person at any  
2 time to purchase or offer to purchase, sell or offer to sell,  
3 expose for sale, or have in his possession for the purpose of  
4 selling any elk, deer, squirrel, wild turkey, ruffed grouse, quail,  
5 woodcock, wild duck, wild goose, wild swan, wild brant, snipe,  
6 sandpiper, or any of the song or insectiverous birds of this  
7 state; or purchase, or offer to purchase, sell or expose for  
8 sale, any trout of any species, salmon, of any species, pike of  
9 any species, bass of any species, perch, turtle or any frog,  
10 caught or captured within the state, except as provided in  
11 section seventy-four, article six of this chapter. It shall be  
12 unlawful for any person or common carrier except as provided  
13 in said section seventy-four, article six of this chapter, to  
14 transport, carry or convey, or to receive for such purpose any  
15 of the animals, birds, or fowls aforesaid, or any part of  
16 the same, or the fish or frogs so caught or killed within  
17 the state knowing or having reason to believe that such  
18 animals, birds, fish or frogs had been or were to be sold.  
19 The selling or exposing for sale, having in possession for sale,  
20 transporting and carrying, contrary to the provisions of this  
21 section, of each and every animal, fish or bird, the sale of  
22 which is prohibited in this section, shall constitute and be  
23 a separate offense.

Sec. 27. It shall be unlawful for any person, firm or  
2 corporation to employ or hire, or induce or persuade, by the  
3 use of money or other thing of value, or by any means, any  
4 person to hunt, catch or kill, for such other person, firm or  
5 corporation, any game animal, game bird or game fowl, or any  
6 other bird or fowl for which no bounty has been offered by the  
7 commission, or to fish for, catch or kill any fish or frog which

8 is protected under any of the provisions of this chapter, or  
9 the sale of which is prohibited by this chapter.

10 No person shall charge, accept, receive or take money, wages,  
11 hire or reward of any kind to hunt, pursue, capture or kill,  
12 for any other person any game animal, game bird, or game  
13 fowl, or any song or insectivorous bird, or any game fish or  
14 frog.

Sec. 28. No person shall serve for pay either directly  
2 or indirectly at any hotel, restaurant, or other licensed eating  
3 place in this state, or in any public eating place in this state,  
4 any game animal, except rabbit, game bird, or game fowl, or  
5 any part thereof, whether caught within or without this state,  
6 or any game fish or frog caught within this state.

Sec. 29. It shall be unlawful for any person to catch,  
2 kill or injure, by means of a gun, snare, trap or poison any  
3 red fox between the first day of February and the first day  
4 of December following, except in the following named coun-  
5 ties: Pocahontas, Doddridge, Monongalia, Marion, Randolph,  
6 Pendleton, Monroe, Jefferson, Hardy, Wayne, Gilmer, Han-  
7 cock, Lincoln, Hampshire, Braxton, Raleigh, Webster, Pres-  
8 ton, Roane, Jackson, Mercer, Nicholas, Greenbrier, Marshall,  
9 Berkeley, Tyler, Boone, Logan, Clay, Barbour, Mineral, Mc-  
10 Dowell, Tucker, Grant, Ohio and Calhoun; *Provided, however,*  
11 that it shall be lawful for any person at any time, or by any  
12 means, to catch, kill or pursue any red fox upon his own  
13 land, or on any lands upon which he may be an actual *bona*  
14 *fide* tenant or resident, and also for the agents of the owner  
14-a or tenant of such land to so hunt and kill any red fox there-  
15 on by the direction of such owner or tenant.

16 If any person violate the provisions of this section he  
17 shall be guilty of a misdemeanor, and upon conviction thereof  
18 shall be punished by a fine of not less than ten dollars nor  
19 more than one hundred dollars or by confinement in jail of  
20 not less than ten days nor more than one hundred days for  
21 each offense, or by both fine and imprisonment within the  
22 limitations aforesaid.

Sec. 30. The commission shall have the authority to  
2 offer and pay, from time to time, under such regulations as  
3 are hereinafter prescribed, such bounties for the killing and  
4 destruction of wild non-game animals which prey upon and  
5 destroy game animals and game, song and insectivorous wild

6 birds and fowl of this state, as the commission shall deem  
7 necessary.

Sec. 31. Any person violating any provision of this ar-  
2 ticle, the punishment for which is not prescribed shall be  
3 guilty of a misdemeanor, and upon conviction thereof shall,  
4 for each offense, be fined not less than twenty, nor more  
5 than two hundred dollars, or confined in jail not less than  
6 ten nor more than one hundred days, or both fined and im-  
7 prisoned within the limitations aforesaid: and in the case of  
8 violation by a corporation every officer or agent directing or  
9 engaged in such violation shall be guilty and in the discretion  
10 of the court, may be punished by both fine and imprisonment  
11 within the limitations aforesaid.

*Article IV. Game Animals and Fur Bearing Animals.*

Sec. 32. For the purpose of this act the following are  
2 game animals: elk, deer, rabbits, gray and fox squirrels  
3 and raccoons; and for the purposes of this act the following  
4 are fur bearing animals: Opossums, beavers, otter, mink, rac-  
5 coons, muskrats and skunk.

Sec. 33. No person shall hunt, chase, capture, wound  
2 or kill any elk in this state at any time before the first day  
3 of December nineteen hundred and thirty five. *Provided*, that  
4 the owner of any elk which shall be kept in any park or  
5 field sufficiently enclosed to reasonably prevent its escape  
6 therefrom shall have the right to kill any such elk. No per-  
7 son shall chase or hunt elk with dogs in this state at any  
8 time, or permit his dog or dogs to hunt or chase elk. No  
9 person shall at any time catch, capture or kill, or attempt  
10 to catch, capture or kill any elk by means of poison, bait,  
11 trap or snare or like device of any kind. Any person violat-  
12 ing this section shall be guilty of a misdemeanor, and upon  
13 conviction thereof, shall be fined not less than one hundred  
14 dollars nor more than three hundred dollars and may be  
15 confined in the county jail not to exceed sixty days.

Sec. 34-35. No person shall hunt, capture or kill any deer  
2 in this state at any time before the first day of December,  
3 nineteen hundred and thirty, after which it shall be lawful  
4 to hunt, capture or kill any buck deer with one or both horns  
5 branched, from the first day of December to the tenth day of  
6 December, both inclusive, of each year; *provided*, that the

7 state game, fish and forestry commission may at any time  
8 open or close the season against the killing of all deer in man-  
9 ner and form as provided in this chapter. *Provided, further,*  
10 that the owner of any deer which shall be kept in any park  
11 or field sufficiently enclosed to reasonably prevent its es-  
12 cape therefrom shall have the right to kill any such deer.  
13 No person shall kill more than one deer in any one season of  
14 each year; nor shall any person at any time hunt, pursue,  
15 shoot at or kill any fawn, doe or any other deer than bucks  
16 with one or both horns branched or have the fresh skin or any  
17 other part of any doe or fawn or illegally killed buck in his  
18 possession; no person shall chase or hunt deer with dogs in  
19 this state at any time, nor permit his dogs to hunt or chase  
20 deer; nor shall any person kill any deer that has been chased  
21 by dogs. No person shall at any time catch, capture or kill  
22 any deer by means of any poison, bait, salt lick, natural  
23 or artificial, trap or snare, or like device of any kind. No  
24 person shall hunt pursue, catch or kill any deer between  
25 nightfall on one day and daylight of the next day, and no  
26 one shall kill or wound any deer while the said deer is in any  
27 stream, lake or pond in this state. And, *provided, further,* that  
28 no person shall hunt, capture or kill any deer in the counties  
29 of Mingo, Marion, Marshall and Mercer in this state until after  
30 five years from the date of the passage of this act, and that  
31 after the expiration of said period of five years, then the pro-  
32 visions of this act shall govern the hunting, capturing or kill-  
33 ing of deer in said counties.

34 Each person killing a deer in this state in any season  
35 when it is lawful so to do, shall within twenty days there-  
36 after, inform the commission in writing of such fact, and  
37 shall also specify in writing the date and place of such kill-  
38 ing, the person by whom killed, the person or persons hunting  
39 with him at such time, the length and branching of its horns  
40 or antlers, and what was done with such deer.

41 Each person violating any provision of the first two  
42 paragraphs of this section shall be guilty of a misdemeanor,  
43 and upon conviction thereof, shall be fined not less than one  
44 hundred dollars nor more than three hundred dollars and  
45 confined in the county jail not less than thirty nor more than  
46 sixty days. Any person violating any provision of the third

47 paragraph of this section shall be guilty of a misdemeanor,  
48 and upon conviction thereof, shall be punished as provided  
49 in section forty-five of this article.

Sec. 36. No person shall hunt, catch, wound or kill any  
2 rabbit between the first day of January and the fourteenth day  
3 of October, both inclusive, of each year; *Provided*, that it  
4 shall be lawful for any person or the children of any person  
5 to hunt, catch or kill at any time any rabbit upon his own land  
6 or any land of which he may be a tenant. No person shall  
7 kill more than six rabbits in any one day nor more than forty  
8 in any one season. *Provided*, that this limit shall not apply to  
9 persons killing rabbits on their own premises.

Sec. 37. No one shall hunt, pursue, catch, capture or kill  
2 any gray, black or fox squirrel between the first day of De-  
3 cember and the fifteenth day of September of the following  
4 year, both dates inclusive. No person shall kill more than six  
5 squirrels in any one day nor more than thirty in any one open  
6 season, *provided*, that upon the petition of one hundred and  
7 fifty duly licensed persons of any county, the game, fish and  
8 forestry commission may open the season not earlier than Sep-  
9 tember first and if they deem wise, close it at a correspond-  
10 ingly earlier date than that specified in this section.

Sec. 38. No person shall hunt, capture or kill any rac-  
2 coon or skunk between the first day of February and the  
3 thirty-first day of October, both dates inclusive, of each year.

Section 39. No person shall hunt, capture or kill any  
2 opossum between the first day of February and the thirty-  
3 first day of October, both inclusive of each year.

Sec. 40. No person shall hunt, capture or kill any beaver  
2 in this state at any time. *Provided*, that the game, fish and  
3 forestry commission may at its discretion establish an open  
4 season for the killing and taking of beavers.

Sec. 41 No person shall hunt, capture, or kill any otter in  
2 this state at any time. *Provided*, that the game, fish and for-  
3 estry commission may at its discretion establish an open season  
4 for the killing and taking of otters.

Sec. 42 No person shall hunt, capture or kill any musk-  
2 rats between the first day of March and the thirty-first day  
3 of October, both dates inclusive, of each year.

Sec. 43. It shall be unlawful for any person at any time to  
2 hunt any game animals at night by the use of a spot or jack

3 light, or any light of like kind, except that game animals which  
4 take refuge in trees may be so hunted. It shall be unlawful for  
5 any one to destroy or cut down any tree in which animals den  
6 or take refuge, for the purpose of merely taking such animals.  
7 It shall be unlawful for any person to kill any game animals or  
8 birds from any automobile or other land conveyance or from  
9 a motor driven craft upon any of the rivers or waters of this  
10 state.

Sec. 44. It shall be unlawful to own ferrets in this state  
2 for any purpose or at any time to have a ferret in ones pos-  
3 session.

Sec. 45-46-47. No person shall at any time set or maintain  
2 any snare or other trap upon the improved or enclosed lands of  
3 another without the express permission of the owner or tenant  
4 of such lands. No person shall set or maintain any steel or  
5 spring bear trap upon any lands not his own and then only  
6 on lands enclosed by a fence.

Sec. 48. Any person violating any provision of this article,  
2 the punishment for which is not prescribed, shall be guilty of a  
3 misdemeanor, and, upon conviction thereof, shall, for each of-  
4 fense, be fined not less than twenty nor more than one hun-  
5 dred dollars, or confined in jail not less than ten nor more  
6 than one hundred days, or both fined and imprisoned within  
7 the limitation aforesaid. The unlawful killing or capturing  
8 of each game animal shall be deemed a separate offense.

Sec. 49. Any person may kill any dog that he may see  
2 chasing, worrying, wounding or killing any sheep, lambs,  
3 goats or kids outside of the enclosure of the owner of such  
4 dog, unless the same be done by the direction of the owner of  
5 such sheep, goats or kids.

Sec. 50. If any dog shall have killed or assisted in killing,  
2 wounding or worrying any sheep, lambs, goats or kids out of  
3 the enclosure of the owner of such dog, the owner or keeper  
4 of such dog shall be liable to the owner of such sheep, lambs,  
5 goats or kids in the amount of the damages sustained, to be  
6 recovered in action before any court or justice having juris-  
7 diction of such action; and it shall not be necessary to sus-  
8 tain such action to prove that the owner of such dog knew  
9 such dog was accustomed to do such worrying, killing or  
10 wounding; but a recovery under this section shall bar and

11 preclude the owner of such sheep, lambs, goats or kids from  
12 obtaining compensation from the county court, and when com-  
13 pensation is obtained from the county court under any law  
14 which is now or may hereafter be in force, then the county  
15 wherein the payment is made is authorized to sue under this  
16 section, and recover as the owner of the sheep, lambs, goats or  
17 kids might have done, and the amount so recovered shall be  
18 paid into the county treasury; but no suit shall be commenced  
19 unless authorized by the county court. Any person who shall  
20 harbor or secrete or aid in secreting any dog which he knows  
21 or has reasons to believe has worried, chased or killed any  
22 sheep, lambs, goats or kids, not the property of the owner of  
23 such dog, out of his enclosure, or knowingly permits the same  
24 to be done on any premises under his control, shall be guilty  
25 of a misdemeanor, and upon conviction thereof before any  
26 court or justice having jurisdiction thereof, in the county in  
27 which the offense is committed, be fined not less than ten dol-  
28 lars, nor more than fifty dollars, and at the discretion of  
29 the court or justice, imprisoned in the county jail not more  
30 than thirty days; and each day that such dog is harbored,  
31 kept or secreted shall constitute a separate offense.

Sec. 51. The owner or keeper of any dog that has been  
2 worrying, wounding, chasing or killing any sheep, lambs, goats  
3 or kids, not the property of such owner or keeper, out of his  
4 enclosure, shall within forty-eight hours after having received  
5 notice thereof in writing from reliable and trustworthy source,  
6 under oath, cause such dog to be killed; if the owner or  
7 keeper refuse to kill said dog as hereinbefore provided, any  
8 justice of the peace, upon information, shall summon the  
9 owner or keeper of said dog, and, after receiving satisfactory  
10 proof that his dog did the mischief, shall issue a warrant on  
11 application being made by the owner of the sheep, lambs,  
12 goats or kids killed, and give it into the hands of the con-  
13 stable, special constable or sheriff, who shall kill the dog forth-  
14 with; the cost of said proceedings shall be paid by the owner of  
15 the dog so killed, including a fee of fifty cents to the officer kill-  
16 ing the said dog; the owner of said dog so killed shall, in addition  
17 to the costs, be liable to the owner of the sheep, lambs, goats or  
18 kids, or to the county court, for the value of the sheep, lambs,  
19 goats or kids so killed or injured.

Sec. 52. Any person violating any provision of section

2 forty-nine, fifty and fifty-one of this act, or failing or  
3 neglecting to perform any duty imposed by said sections  
4 forty-nine, fifty and fifty-one, shall be liable in an action  
5 of prosecution before any court or justice having jurisdiction,  
6 for the amount of damage sustained, and also a fine of not to  
7 exceed one hundred dollars and the cost of prosecution, or to  
8 imprisonment in the county jail for not more than thirty  
9 days, or to both fine and imprisonment.

*Article V. Birds and Fowls.*

Sec. 53. For the purpose of this chapter the following are  
2 game birds or game fowls; the anatidae, commonly known as  
3 ducks, geese, swans and brant; the rallidae, commonly known as  
4 mud hens, rails, coots, and gallinules; the limicolas, commonly  
5 known as shore birds, plovers, snipes, woodcocks, tattlers, cur-  
6 lews, ortolans and sandpipers; and the gallinae, commonly  
7 known as wild turkeys, ruffed grouse or pheasant, quail or  
8 bobwhite.

Sec. 54. No person, shall hunt, pursue, catch, capture or  
2 kill any wild duck, goose, brant, plover, snipe, woodcock, or-  
3 tolan, sandpiper or any other migratory game bird included in  
4 the terms of the convention between the United States and  
5 Great Britain for the protection of such birds, during the  
6 closed seasons prescribed for such birds by federal regulation  
7 adopted by the secretary of agriculture and approved by the  
8 president of the United States pursuant to the authority con-  
9 ferred by the act of congress entitled an act to give effect  
10 to the convention between the United States and Great  
11 Britain for the protection of migratory birds, concluded at  
12 Washington, August sixteenth, one thousand nine hundred  
13 and sixteen and for other purposes, and known by the short  
14 title of the "Migratory Bird Treaty Act," or by any amend-  
15 ment thereof.

16 No person shall kill more than fifteen ducks, or more  
17 than four geese, or more than eight brant, in any one day.

Sec. 55. No person shall hunt, pursue, catch, capture or  
2 kill any wood duck at any time within this state.

Sec. 56. No person shall hunt, pursue, capture, wound, or  
2 kill any wild turkey between the first day of December and  
3 the fourteenth day of October of the following year, both  
4 dates inclusive; nor shall any person, during the period when  
5 it shall be unlawful to hunt, pursue, catch and kill wild tur-

6 keys, engage therein between nightfall of one day and day-  
7 light of the next day. No person shall kill more than one  
8 wild turkey in any one day, or more than two wild turkeys  
9 in any one open season. In the month of December of each  
10 year, it shall be the duty of each person who has killed a  
11 wild turkey in this state to report to the commission in writ-  
12 ing the number killed by him during the open season of that  
13 year, designating whether or not the same were male or  
14 female

Sec. 57. No person shall hunt, pursue, catch, capture or  
2 kill any ruffed grouse between the first day of December and  
3 the fourteenth day of October of the following year, both  
4 dates inclusive. No person shall kill more than three ruffed  
5 grouse in any one day, nor more than fifteen ruffed grouse in  
6 any one year.

Sec. 58. No person shall hunt, pursue, catch, capture or kill  
2 any quail or Virginia partridge between the first day of De-  
3 cember and the thirty-first day of October of the following  
4 year, both dates inclusive. No person shall kill more than  
5 eight quail in any one day nor more than fifty quail in any  
6 one year.

Sec. 59. No person shall at any time hunt, pursue, catch,  
2 capture or kill any Hungarian partridge or quail, Reeve's  
3 pheasant, English pheasant (not meaning thereby ruffed  
4 grouse), Lady Amherst's pheasant, Chinese pheasant, Capor-  
5 cailzie, or any other foreign game bird introduced into this  
6 state by the commission.

Sec. 60. No person shall at any time hunt, pursue, catch,  
2 capture or kill any song or insectivorous bird.

Sec. 61. No person shall catch, capture or kill, or attempt  
2 to catch, capture or kill, at any time, by seine, net, bait, trap  
3 or snare, or like device of any kind, any wild turkey, ruffed  
4 grouse, pheasant or quail.

Sec. 62. No person shall wilfully or needlessly destroy or  
2 attempt to destroy the nest or eggs of any wild bird or have  
3 such nest or eggs in his possession, except it be the nest or eggs  
4 of a bird for which a bounty has been offered by the com-  
5 mission, or unless such person be acting under permit issued by  
6 the commission to any person for the purpose of collecting  
7 birds, their nests or eggs, for scientific purposes.

Sec. 63. No person shall, within this state, kill, catch, or have in his possession, living or dead, any wild bird other than a game bird or wild bird for which a bounty has been offered by the commission; or purchase, offer or expose for sale, or transport within or without the state, any such bird, except as aforesaid. No part of the plumage, skin or body of any bird protected by this section shall be sold or had in possession for sale, irrespective of whether such bird was captured within or without the state, except the English or European sparrow, starlings, owls, hawks, eagles, cross, kingfishers, and the common blackbird, some times called the "crow" blackbird, which are not included among the birds protected by this chapter, and the killing thereof at any time is lawful.

Sec. 64. Any person violating any provision of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall, for each offense, be fined not less than twenty nor more than one hundred dollars, or confined in jail not less than ten nor more than one hundred days, or both fined and imprisoned with the limitations aforesaid. The unlawful killing or capturing of each bird or fowl named in this article shall be deemed a separate offense.

*Article VI. Fish and Frogs*

Sec. 65. For the purposes of this chapter the following are game fish; black bass, green bass, white bass, willow bass, trout, white salmon, landlocked salmon, jack fish, wall-eyed pike, muskalonge, pickerel and perch. It shall be unlawful for any person to catch and keep or not return to the water immediately after catching, any jack salmon, commonly called jack fish, less than ten inches in length or any pike or pickerel of less than ten inches in length, or any bass or perch less than eight inches in length, or any trout less than six inches in length. Fish less than the length prescribed herein shall be returned to the water immediately after being caught with as little injury as possible. The measurement of the fish shall be taken from the end of the nose to the center fork of the tail.

Sec. 66. The following closed seasons for fish and frogs are hereby established, during which no person shall fish for, catch, take, kill or destroy in any manner any of the fish or frogs herein after enumerated: for

5 (a) Black bass, green bass, white bass or willow bass  
6 from the first day of December to the thirtieth day of  
7 June of the following year, both dates inclusive; *provided*,  
8 *however*, that in the navigable slack water created by dams  
9 maintained by the federal government it shall be lawful to  
10 take (but only with rod, line and hook or hooks with natural or  
11 artificial lures) any bass mentioned in this section between  
12 the thirtieth day of May and the first day of December, both  
13 inclusive, of each year. *Provided*, that upon the petition of  
13-a one hundred and fifty duly licensed persons of any such  
14 county, the game, fish and forestry commission may open the  
14-a season for that county for one month from March fifteenth  
15 to April fourteenth, inclusive.

15-a (b) Trout, from the first day of August to the four-  
16 teenth day of April of the following year, both dates in-  
16-a clusive.

17 (c) White salmon, from the first day of April to the  
18 thirtieth day of May of each year, both dates inclusive.

19 (d) Landlocked salmon, from the first day of August  
20 to the fourteenth day of April of the following year, both  
21 dates inclusive.

22 (e) Jack salmon, jack fish, muskalonge or wall-eyed pike  
23 from the first day of April to the thirtieth day of May of each  
24 year, both dates inclusive.

25 (f) Pike, other than wall-eyed pike, from the first day  
26 of December to the thirtieth day of June of the following  
27 year, both dates inclusive.

28 (g) Pickerel, from the first day of December to the  
29 thirtieth day of June of the following year, both dates in-  
30 clusive.

31 (h) Perch, from the first day of December to the thir-  
32 tieth day of June of the following year, both dates inclusive.

33 (i) Frogs, from the first day of December to the first  
34 day of July of the following year.

Sec. 67. No person shall catch more than ten bass, or more  
2 than twenty-five brook trout or more than fifteen rainbow  
3 trout or more than ten brown trout, in one day. No person  
4 shall catch more than twenty-five of all species of trout in  
5 one day.

Sec. 68. It shall be unlawful for any person to kill or catch,

2 or attempt to kill or catch, any fish in this state, at any time,  
3 by means of seines, nets, or traps, or devices of like nature,  
4 unless written consent shall have been given by the commis-  
5 sion for the use of such seines as hereinafter provided; or  
6 by draining water out of any pool, pond or stream, with the  
7 intent to take or injure the fish therein; or by the use of  
8 dynamite, or any like explosive or other explosive mixture, or  
9 any poisonous drug or substance; or by the use of electricity  
10 or lime; or by the use of a gun, rifle, pistol or any other like  
11 weapon; or by any other means whatsoever except by rod,  
12 line and hook or hooks with natural or artificial lures;  
13 *Provided*, that any person may employ a seine not more than  
14 eight feet in length for the purpose of securing minnows other  
15 than salmon, bass, shad, pike, perch and trout, for use in  
16 angling; *Provided, further*, that the commission may at any  
17 time catch fish, with nets, seines, or otherwise, for the pur-  
18 pose of propagation and protection of fish of this state. It  
19 shall be unlawful for any person at any time to kill, or catch  
20 any game fish by gigging, snaring, spearing, gaffing or grab-  
21 bing; or to so take any fish during April, May and June.

Sec. 69. It shall be unlawful for any person, firm or cor-  
2 poration to throw, discharge or cause to enter in any stream,  
3 watercourse or water in this state saw dust, or other matter  
4 deleterious to the propagation of fish. It shall be lawful,  
5 however, to drain or cause to be drained from any mine in  
6 this state by the owner or operator thereof the water that  
7 naturally collects in such mine and the water from any  
8 coal washery, and to discharge the same into any stream,  
9 watercourse or water in the state; *provided, however*, that  
10 any mine from which the water is so discharged or drained  
11 shall be kept in a sanitary condition and the water draining  
12 or flowing from such mine, and from such washery, shall,  
13 while in the mine and on the premises of the mine-owner or  
14 operator, be kept free from pollution by human or animal  
15 excrement or substance deleterious to health. And the state  
16 board of health, its agents, employees and servants shall at all  
17 seasonable times have authority to enter upon the premises  
18 and into any such mine in order to see that the same is kept  
19 in sanitary condition and that the waters draining therefrom  
20 are free from the objectionable substance named herein;  
21 with the right to the state board of health to prevent any

22 mine-owner or mine operator who fails to comply with the  
23 provisions of this act from draining or discharging water or  
24 waters from his or its mine into any stream, or water course  
25 in the state; *provided, further*, that any mine owner or oper-  
26 ator having one suitable convenient and sufficient outlet for  
27 the water from his or its own mine into one stream shall not  
28 cause the same to be drained into any other stream. Any  
29 person, firm or corporation violating any of the provisions of  
30 this section shall be guilty of a misdemeanor, and fined not  
31 less than ten nor more than one hundred dollars, and such  
32 person violating this section, and the officer or agent of any  
33 corporation, who directs or participates in the violation of this  
34 section, may be imprisoned in jail not less than ten nor more  
35 than one hundred days, or both such fine and imprisonment  
36 as may be imposed for such violation.

Sec. 70. The commission may establish, operate, conduct  
2 and maintain fish hatcheries and feeding stations for fish,  
3 and may employ and appoint such persons and assistants at  
4 such salaries and for such time as it may deem necessary to  
5 operate, conduct and care for them, and may discharge such  
6 employee and appointees at will. It may in the name of the  
7 state, purchase or lease lands and water necessary for the  
8 establishment, operation, conduct and maintenance of such  
9 hatcheries and feeding stations.

Sec. 71. The commission shall have the power to designate  
2 certain streams for the propagation of certain species of fish,  
3 and no person shall place fish in such streams other than the  
4 species so designated.

Sec. 72. The commission shall have power and authority  
2 to issue a license to any person for the propagation of game,  
3 food and bait fish, upon written application therefor, signed  
4 by the applicant, and upon the payment to the commission of  
5 a fee of ten dollars. All licenses issued under this section  
6 shall expire on the first day of January following the date of  
7 issue. A license may be renewed from year to year upon pay-  
8 ing to the commission the sum of one dollar for each such  
9 renewal.

Sec. 73. Such application shall be made on blanks prepared  
2 by the commission, and shall show the size, character and  
3 location of the plant or pond proposed to be constructed,  
4 the purpose thereof, and such other information as the com-

5 mission may require. The license shall describe the plant or  
6 pond to be constructed. Such license may be refused when,  
7 in the opinion of the commission, any such pond or structure  
8 would interfere with the free passage of fish, and may be  
9 revoked for like cause, or when the licensee violates any of  
10 the provisions of this article.

Sec. 74. The commission may grant a license to an appli-  
2 cant to establish any such plant or pond in any water or stream  
3 flowing over land owned, leased or occupied by him, or may  
4 authorize him to divert any such water or stream to such  
5 plant or pond, provided the riparian rights of other land-  
6 owners are not violated by such diversion, if, after investi-  
7 gation, the commission is satisfied that such plant, pond or  
8 diversion will not interfere with the public stocking or prop-  
9 agation of game or food fish frequenting such waters or  
10 that any such stream or water by reason of its natural size  
11 is not suited to such public stocking or propagation.

12 The commission may license any plant or pond con-  
13 structed prior to the time this code takes effect, if it would  
14 be proper to authorize the construction of such plant or  
15 pond under the provisions of this article. The application  
16 for such license shall give the location of the plant or pond,  
17 the character and description thereof, the waters in which  
18 located or from which supplied, and such other information as  
19 the commission may require in determining whether such  
20 license should be granted or refused.

Sec. 75. No dam, pond or other device which will prevent  
2 the free passage up and down stream of migratory fish fre-  
3 quenting such waters shall be erected or placed by a per-  
4 son licensed under this article in any stream containing  
5 game or food fish, except in streams which by reason of their  
6 natural size are not suited to the public stocking or propa-  
7 gation of fish. All ponds and other structures used for the  
8 propagation of fish shall be so constructed as to prevent other  
9 fish from entering therein. Any person violating any pro-  
10 vision of this section shall be guilty of a misdemeanor, and  
11 on conviction thereof, shall be fined not less than twenty dol-  
12 lars nor more than one hundred dollars. The commission or  
13 any game protector may remove and abate any such obstruction  
14 whether conviction be had under this section or not.

Sec. 76. Any person licensed under the provision of this article shall have authority to carry on the business of propagation and sale of all species of game, food and bait fish, or the eggs thereof, during the year for which the license is issued. Such licensee shall also have authority to catch and kill game, food, or bait-fish from his licensed pond, in any manner whatsoever, except with explosives or poisonous substances. Such licensee shall have the authority under such license to sell or dispose of, in any manner whatsoever, game, food, or bait-fish, or the eggs thereof, taken from such licensed pond, at any time of the year, and any railroad or express company may receive and transport the same.

Sec. 77. A person selling fish under the license provided for in this article shall furnish the purchaser with a certificate or invoice of sale, bearing the date of sale, the number of the license under which sold, the number of fish and number of pounds sold. The form of such certificate or invoice shall be prescribed by the commission.

The certificate or invoice shall be prescribed by the holder on demand of any game protector, or any person authorized under the provisions of this chapter to enforce the provision thereof.

Sec. 78. Every person holding a propagation license under this article shall annually on the thirty-first day of December, file with the commission a written report, duly sworn to, showing the number of fish and number of pounds, or the eggs thereof, sold or disposed of during the year, to whom and the value thereof.

Sec. 79. No person shall, except for private use, maintain a plant or pond for the propagation of fish without first having obtained the license provided for in this article. No person shall catch, kill or injure any fish, or take or destroy any of the eggs thereof, in any pond or plant licensed under the provisions of this article without the authority of the owner or proprietor thereof. No person shall interfere with, obstruct, pollute or diminish the natural flow of the water into or through a propagating plant or pond licensed under this article.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty nor more than one hundred dollars.

Sec. 80. Any person violating any provision of this article the punishment for which is not prescribed shall be guilty of a misdemeanor, and, upon conviction thereof, shall, for each offense, be fined not less than twenty nor more than one hundred dollars, or confined in the county jail not exceeding thirty days, or both fined and imprisoned within the limitations aforesaid; *Provided*, that any person convicted of killing fish by dynamite or other explosives, or poisons, shall be guilty of a felony and be confined in the penitentiary not less than one nor more than three years.

*Article VII. Hunting and Fishing Licenses.*

Sec. 81. No person above the age of fifteen years, who is a citizen of the United States, shall, at any time, hunt, pursue, kill or catch, any wild animals, or wild birds, or wild fowl, or fish for, kill or catch any fish or frogs, of any kind whatsoever, without first having secured a license so to do as herein provided, and then only during the respective periods when it shall be made lawful to hunt such wild game animals, or wild game birds and wild game fowl, or fish for, capture, catch or kill such fish or frogs: *Provided* that a *bona fide* resident land owner of this state, or his residents children, or his *bona fide* resident tenant, may hunt, kill pursue or catch any of the game animals and game fowl, and fish for, capture or kill any of the fish or frogs of this state on his own land during open season therefor, but under the regulations and laws herein expressly made for hunting and fishing, without obtaining a license to do so, if said land shall not have been designated and made, in manner provided by law, a state game refuge or reserve. Nothing herein shall be construed to permit any resident or non-resident member of any club or organization or association of persons owning or leasing a game or fish reserve in this state to hunt or fish without having secured license therefor.

Sec. 82. A resident hunting and fishing license shall entitle the licensee to hunt and fish in all counties in this state, except as hereinafter provided as to deer. The fee for such license shall be one dollar and twenty-five cents.

A resident big game license shall entitle the licensee to hunt deer in all counties of the state. The fee for such license shall be five dollars: *Provided, however*, that in the

11 county of one's own residence only the resident hunting license  
12 shall be required to hunt deer.

13 A non-resident hunting license shall entitle the licensee  
14 to hunt in all counties of the state. The fee for such license  
15 shall be fifteen dollars.

16 A non-resident fishing license shall entitle the licensee to  
17 fish in all counties of the state. The fee shall be five dollars.

Sec. 83. Such several licenses may be secured in the follow-  
2 ing manner. If the applicant is a resident of this state he  
3 shall go before the clerk of the county court of the county of  
4 his residence and in ink fill out and sign his name to a  
5 blank application, which application shall be prepared by the  
6 game and forester commission and furnished by it to such  
7 clerk, and which shall state, among other things to be provid-  
8 ed therein by the commission, the class of license sought, the  
9 citizenship, age, name, occupation or profession, weight,  
10 height, place of county residence, color of hair, eyes and  
11 complexion of the applicant, and the applicant shall in  
12 person make oath thereto before and file said application with  
13 such clerk. If the applicant is a *bona fide* resident of this  
14 state, he may fill out such application and swear to the same  
15 before someone authorized to administer oaths and send the  
16 same to the county clerk of the county of his residence, to-  
17 gether with the amount of license tax herein prescribed and  
18 sufficient postage for the return of the license, and such  
19 clerk shall thereupon issue and send him such license.

20 If the applicant is a non-resident of this state, he shall  
21 make, sign, swear to and file a like form of application, but  
22 such application may be signed and sworn to by him before  
23 any person authorizezd in the state of his residence to ad-  
24 minister oaths, but the officer taking such affidavit shall affix  
25 his seal thereto. Such application may be filed with and such  
26 license may be granted by the clerk of the county court of  
27 any county in this state to whom such application is made.

28 Before any such licenses shall be issued such applica-  
29 tion shall be made and filed as aforesaid and the applicant  
30 shall pay to the clerk the fee for such license as is provided  
31 in the preceding section of this article.

Sec. 84. The clerk shall issue and deliver to the applicant  
2 a license in the form prescribed by the commission, sign the  
3 same, affix thereto the seal of the county court of which he

4 is clerk, and number the license according to the serial order  
5 in which it was issued. The clerk, shall at the same time,  
6 deliver to each hunting licensee a tag, furnished by the com-  
7 mission free of charge, bearing the license number, in figures  
8 at least one inch in height, and containing the words "resi-  
9 dent" or "non-resident," as the case may be, which tag said  
10 hunting licensee is required to display on the outer garment,  
11 on the back between the shoulders, in such manner that all  
12 figures are plainly visible at all times while hunting. The  
13 license tag for the current year only shall be displayed. The  
14 clerk shall keep an accurate list of all licenses issued by him  
15 and of all moneys received therefor, for each class of license.

Sec. 85. Such license shall be valid only until the last  
2 day of the calendar year in which the same is issued.

Sec. 86. No person shall in any manner alter or change  
2 any license or tag issued under the provisions of this article,  
3 or buy or sell, or offer to buy or sell, the same, or transfer  
4 it to any other person or permit any other person to have  
5 or use it. No person shall have, use or exhibit any license  
6 or tag which has been issued to any other person than  
7 himself.

Sec. 87. No person to whom such license is granted shall  
2 hunt, pursue, kill or catch, any game animals, game birds  
3 or game fowl, or fish for, capture or kill any fish or frogs  
4 in this state, unless at the time thereof, he shall, on demand,  
5 exhibit the said license to any officer of this state, or to the  
6 owner, tenant or lessee of any land on which he is hunting  
7 or fishing.

Sec. 88. Any person having in his possession in the fields  
2 or woods in or about the streams or waters of this state,  
3 any gun or hunting paraphernalia or any fishing rod or  
4 other fishing paraphernalia, except he be the owner of such  
5 fields, woods, streams or waters, or that he be the child,  
6 tenant or lessee of such owner, shall upon demand of any  
7 officer mentioned in this chapter, or of the owner tenant,  
8 lessee or the agent of the owner of such fields or woods,  
9 produce and exhibit his proper license to such officer or  
10 person for inspection, and shall give to such officer or person  
11 his correct name and address.

Sec. 89. No person shall carry any uncased gun in any  
2 of the fields or woods of this state, unless he has a properly

3 issued and valid hunting license; or unless such person is the  
4 *bona fide* owner of such field or woods, or his child, tenant  
5 or lessee. The carrying of such uncased gun in any of the  
6 fields or woods of this state, by any person not having a  
7 hunting license to do so, as aforesaid, shall be deemed *prima*  
8 *facie* evidence that the person so carrying such uncased gun  
9 is hunting wild animals or wild birds or fowls.

Sec. 90. In case the commission desires to refuse a license  
2 to any person, it shall notify the clerk of the county court  
3 of the residence of such person, or any such clerk where it  
4 is expected such license shall be sought, of the name and  
5 address of such person and such other information in re-  
6 lation thereto as it may desire to give, and such clerk shall  
7 not issue a license to such person thereafter, and shall report  
8 to the commission any application made therefor. In case  
9 any clerk shall, after receiving such notice, knowingly issue  
10 such license, he shall be guilty of a misdemeanor, and, upon  
11 conviction thereof, shall be fined not less than ten nor more  
12 than one hundred dollars for each offense. The commission  
13 may revoke any such license so wrongfully issued. The  
14 violation of any of the provisions of this chapter by any  
15 person holding a license shall be sufficient cause for the  
16 refusal of the commission to grant in any year a license to  
17 the person so violating any such provision.

18. All license herein authorized to be granted shall be deemed  
19 to have been granted by the commission, and the power and  
20 authority to revoke such licenses is vested in the commission.  
21 Upon the revocation of any license, the one to whom the  
22 same was issued shall, upon having a knowledge of such  
23 revocation, forthwith deliver the license and tag so issued  
24 to him to the clerk of the county court of the county who  
25 issued the same to him, and such clerk shall thereupon trans-  
26 mit the same to the commission.

Sec. 91. All moneys received by or paid to any officer or  
2 other person of this state for licenses as aforesaid shall be  
3 paid to the commission, in the manner and at the times as  
4 hereinafter provided, and commission shall, on receipt of the  
5 same, forthwith pay over to the state treasurer such money  
6 so received, accompanying it with a statement showing in  
7 detail the sources of such money and the purposes for which  
8 the same was originally paid. Such officers and other persons

9 so receiving such money shall, on the first day of each month,  
10 pay over to the commission all moneys so paid to them during  
11 the preceding month, and each officer and person shall ac-  
12 company such payment with a report showing, in the case of  
13 license money, the name of the county, the class of licenses  
14 sold, the names and addresses of the persons paying the  
15 same, and the date of the receipt thereof. All such money  
16 so paid for licenses shall be credited to and kept separately  
17 in a "game, fish and forestry fund", and shall be used and  
18 paid out upon the order of the commission, solely for the  
19 conservation, protection, propagation and distribution of the  
20 fish, frogs, wild game and wild birds and fowls of this state,  
21 in the enforcement of the fish and game laws of this state,  
22 for any of the purposes in this chapter provided, and for  
23 the operation of the commission.

24 All the money so credited to the game, fish and forestry  
25 fund and applicable as aforesaid to the maintainance and  
26 conduct of the commission shall be withdrawn from the  
27 state treasury and expended only upon the written requisi-  
28 tion of the commission authorized by it at a meeting duly  
29 held, and signed by the chairman of such commission.

Sec. 92 The commission shall expend each year not less  
2 than ten per cent of the total revenue obtainable from the  
3 resident hunting licenses, and from the non-resident hunting  
4 licenses for the purpose of creating, establishing and main-  
5 taining game refuges and public shooting grounds hereinafter  
6 more fully described.

7 The commission shall expend each year not less than ten  
8 per cent of the total revenue obtainable from the resident  
9 hunting licenses and from the non-resident hunting licenses,  
10 for the purposes of paying bounties on such predatory and  
11 non-game birds as the commission may deem harmful to the  
12 increase and propagation of wild game animals and wild  
13 game birds.

14 The commission shall expend each year forty percent of  
15 the total revenue obtainable from the resident fishing licenses  
16 and from the non-resident fishing licenses, for the purpose of  
17 building, erecting and maintaining fish hatcheries and rear-  
18 ing troughs and such other material and equipment as the  
19 commission may deem necessary to properly stock the streams  
20 of this state with fish.

21 The commission shall expend ninety percent of the total  
22 revenue obtainable each year from the resident big game  
23 licenses, for the purpose of buying Virginia white tail deer  
24 for re-stocking purposes and for no other purpose whatso-  
25 ever.

Sec. 93. Any person violating any provision of this article  
2 shall be guilty of a misdemeanor, and, upon conviction  
3 thereof, shall, for each offense, be fined not less than twenty  
4 nor more than one hundred dollars, or confined in jail not  
5 less than ten nor more than one hundred days, or both fined  
6 and imprisoned within the limitations aforesaid.

*Article VIII. Game Refuges.*

Sec. 94. The game, fish and forestry commission, with the  
2 consent of the governor, shall have the power and right to  
3 purchase, in the name of the state, out of funds set aside  
4 for the purpose, or out of any unused funds in the hands of  
5 the commission under this chapter, lands suitable for game  
6 refuges and public shooting grounds and fish refuges: *Pro-*  
7 *vided*, that the commission shall not pay more than five  
8 dollars per acre for such lands. The commission may also  
9 receive any gift of any such lands, whether by deed or will.  
10 In the case of gifts or purchases, the absolute fee simple title  
11 shall pass to the state, except for the reservation of minerals  
12 and the mining rights to remove such minerals.

Sec. 95. The commission shall establish and maintain  
2 game refuges and public shooting grounds on lands pur-  
3 chased or given for this purpose, out of funds provided  
4 for such purpose in this act. Not more than one-third of  
5 the area of any tract established for this purpose shall be  
6 used for game refuges and the remainder shall be a public  
7 shooting grounds. Such areas set apart as a game refuge  
8 shall be located as nearly as possible in the center of such  
9 tracts. And lands now owned or controlled by the com-  
10 mission and maintained as a game refuge shall be apportioned  
11 in this manner, within one year from the passage of this act.  
12 It shall be unlawful at any time to hunt, pursue or molest  
13 in any manner, any animals, birds or fowls on that section  
14 of any game refuge and public shooting grounds designated  
15 as the game refuge, except that any legally constituted game  
16 protector or game refuge keeper or warden may hunt, pursue,

17 catch and kill in any manner predatory animals and preda-  
18 tory birds thereon.

19 Each state game refuge shall be surrounded by a well de-  
20 fined fire line, road or other clear strip of land, and by at  
21 least one wire at the boundary thereof. On the boundary  
22 of each state game refuge, there shall be posted in con-  
23 spicuous places, not more than one hundred and fifty yards  
24 apart, notices bearing the following words: "state game  
25 refuge—hunting is unlawful." And such other information  
26 or rules and regulations as the commission may deem advis-  
27 able. On the boundary line of the area surrounding any  
28 such refuge which has been established as a public shooting  
29 grounds, the commission shall have posted in conspicuous  
30 places not more than one hundred and fifty yards apart,  
31 notices bearing the following words: "public shooting  
32 grounds", together with information as to when hunting is  
33 legal on such tract. For and upon every such game refuge  
34 and public shooting grounds the commission shall employ  
35 not less than one resident caretaker or warden whose duty it  
36 shall be to protect and propagate game thereon, grow, harvest  
37 and distribute food for the same when needed, keep the area  
38 as free as possible from predatory animals and birds, protect  
39 the area from fire and perform all duties necessary to  
40 maintain such refuge and public shooting grounds.

41 The commission shall also have the power to lease lands  
42 for this purpose for not less than ten year periods, the rental  
43 price thereof not be more than the amount of the taxes  
44 on such land, and in no event to exceed ten cents per acre  
45 per annum.

Sec. 96. The commission may with the consent of the  
2 owner or owners of any land in this state of two thousand  
3 acres or more in extent, set the same apart as a game refuge  
4 and public shooting grounds not more than one-third of  
5 such tract to be used as a game refuge and the remainder  
6 as a public shooting grounds, when any such lands have  
7 been so acquired for this purpose by purchase or gift as is  
8 hereinbefore set forth. Any such lands not owned by the  
9 state and now held by the commission as game refuges, at  
10 the expiration of their agreement, now be reorganized as  
11 game refuges and public shooting grounds or be discon-  
12 tinued.

Sec. 97. The commission, may with the consent of the owner of any land bordering any stream of this state, by publication and posting of notices as provided in this section, because of drought, forest fires, diseases existing among the fish, or for the purpose of conservation, protection or propagation of fish and frogs, declare any such stream in this state, or any part thereof, as a fish or frog refuge, and thereafter maintain the same as such. After such declaration no person shall, during the time the same is made a refuge, fish for, capture, catch or kill any fish or frogs in such streams or in any manner pollute the waters thereof.

Sec. 98. Any person violating any of the provisions of the three preceding sections shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty, nor more than one hundred dollars, or by confinement in jail not less than ten nor more than one hundred days, or by both fine and imprisonment within the limitations aforesaid, for each offense.

*Article IX. Forestry.*

Sec. 99. The game, fish and forestry commission shall have power and authority to protect the forests of the state against injury or destruction by fire, insects, fungus, or other disease, to study and make recommendations as to proper methods for such protection and for forest culture, and to disseminate any such information throughout the state. For such purposes the commission shall appoint a chief forester duly qualified with technical forestry training; a graduate of a reputable college or university supplemented by actual experience in handling forestry field organization; further local forest protectors shall also be appointed for such forest fire districts as the commission may deem it necessary to designate. The commission, may, at its discretion, with or without cause, summarily remove any person appointed by it and fill any vacancy so created. The commission shall fix the salary to be paid to the chief forester, and may pay local forest protectors at the rate of three dollars and fifty cents per day when actually engaged in fighting fires.

Sec. 100. Before entering upon the discharge of his duties, the chief forester shall take, sign and execute the oath of office prescribed in section five of article four of the constitution of this state. The oath may be administered by

5 any commissioner or any other person authorized by law to  
6 administer oaths, and shall be returned to and filed with the  
7 commission.

Sec. 101. The commission is vested with authority and  
2 power to protect the forest against injury or destruction by  
3 fire, and for which purposes they may appoint local forest  
4 protectors for such forest fire districts as the commission  
5 deems necessary to designate, with pay at the rate of three  
6 dollars and fifty cents per day when actually engaged in  
7 fighting fire, and it is made the duty of the commission, the  
8 chief forester and forest protectors, upon receiving notice of  
9 any such forest fire, to employ all the necessary means to  
10 confine or extinguish the same. For this purpose authority  
11 is given to destroy fences, plow lands or, in cases of ex-  
12 treme emergency, to set back-fires. The chief forester and  
13 forest protectors may, under the general supervision of the  
14 commission, in case of emergencies, summon or employ per-  
15 sons to assist in fighting fires, who shall be paid at the rate  
16 of three dollars a day for the actual time so employed in  
17 fighting such fires. Any person who shall fail or refuse to  
18 assist in the fighting of such fires shall, unless such failure  
19 is due to physical inability, be guilty of a misdemeanor, and  
20 upon conviction be fined not less than ten nor more than  
21 twenty dollars for each offense.

Sec. 102. All services rendered at forest fires except that ren-  
2 dered by the chief forester or forest protectors, shall be  
3 charged against the county in which the fire was, and each  
4 forest protector shall render to the county court, within  
5 twenty days after such fire, and also to the commission, a  
6 sworn statement of the time used in fighting such fires, with  
7 the name or names of all persons who were summoned and  
8 assisted thereat and who furnished subsistence or supplies  
9 therefor, or transportation, and the amount of money due  
10 each therefor. The county court of the county in which the  
11 fire was, shall pay such charges against it within ninety  
12 days after occurrence of such fire.

Sec. 103. Whoever by himself, or by his servants, agents or  
2 guides, or as the servant, agent or guide of any other per-  
3 son, shall build any fire, or use an abandoned fire in a field,  
4 public or private road, or adjacent to, or in any woods or

5 forest in this state, shall, before leaving such fire, totally  
6 extinguish the same; and upon failure to do so, such per-  
7 son, or persons, shall be deemed guilty of a misdemeanor,  
8 and on conviction thereof shall be fined not less than twen-  
9 ty-five dollars nor more than one hundred dollars and costs  
10 of the prosecution, and upon default in paying said fine  
11 and costs shall be confined in the county jail not more than  
12 ninety days unless said fine and costs be sooner paid. If  
13 any person, or persons, negligently set on fire any woods,  
14 fields or lands within this state, so as thereby to occasion  
15 loss, damage or injury to any other person, he shall be guilty  
16 of a misdemeanor and on conviction thereof shall be fined  
17 not less than fifty dollars nor more than five hundred dol-  
18 lars, and in the discretion of the justice or court trying the  
19 case, be imprisoned in the county jail not to exceed one  
20 year, and upon default in payment of the fine and costs he  
21 shall be imprisoned in the county jail not to exceed six  
22 months; and if any person or persons wilfully set on fire  
23 any woods, fields or lands within the state, so as thereby to  
24 occasion damage or injury to any other person, he shall be  
25 guilty of a felony, and on conviction thereof shall be con-  
26 fined in the penitentiary not less than one or more than two  
27 years.

Sec. 104. Every railroad company or such other company  
2 operating a locomotive, shall on such part of its road as passes  
3 through forest lands, or lands subject to fires from any  
4 cause, cut and remove from its right of way along such  
5 lands at least twice a year, all grass, brush, and other in-  
6 flammable materials, and employ, in seasons of drought and  
7 before vegetation has revived in the spring, sufficient track-  
8 men to promptly put out fires on its right of way; provide  
9 locomotives thereon with netting of steel or iron so con-  
10 structed as to give the best practical protection against the  
11 escape of fire and sparks from the smokestacks thereof, and  
12 against the escape of fire from ash pans and furnaces which  
13 shall be used on such locomotives.

14 No railroad company, or employee thereof, shall deposit  
15 fire coals or ashes on its track or right of way near such  
16 lands. In case of fire on its own or neighboring lands, the  
17 railroad company shall use all practicable means to put it  
18 out. Engineers, conductors or trainmen discovering or know-

19 ing of fire in fences or other material along or near the  
20 right of way of the railroad in such lands shall report the  
21 same at the first station to the station agent, and such sta-  
22 tion agent shall, as soon as practicable, notify the nearest  
23 forest protector and use all necessary means to extinguish  
24 the same. And any officer or employee of a railroad com-  
25 pany violating any provisions of this section shall be guilty  
26 of a misdemeanor and, upon conviction thereof, shall be  
27 fined a sum not less than twenty nor more than two hun-  
28 dred dollars.

Sec. 105. The commission shall, in the name of the county  
2 in which any forest fire has occurred, and which has been ex-  
3 tinguished or suppressed by its efforts, recover from the  
4 person or persons, firm or corporation negligently giving  
5 origin to such fire, the amount so expended in extinguish-  
6 ing said fire and the costs thereof, and the same shall not  
7 bar the rights of damages between the parties thereto.

Sec. 106. The commission may do all things required to meet  
2 the conditions and requirements of the federal government  
3 in securing federal cooperation under the provisions of the  
4 Weeks law and the Clarke-McNary law, and any law amend-  
5 atory thereof or supplemental thereto, for the purpose of  
6 preventing forest fires and the advancement of forestry  
7 practices; and for this purpose the sum of ten thousand  
8 dollars is hereby appropriated annually.

Sec. 107. The commission may co-operate with the owners  
2 of forest lands and receive financial assistance from them for  
3 the things necessary therefor, including the establishment  
4 and maintenance of patrol and lookout stations; *provided*,  
5 that the commission shall expend therefor for forestry pur-  
6 pose by the state, and such moneys as may be contributed  
7 therefor by the private owners, and in addition for the  
8 aforementioned purposes shall provide twenty-five per cent  
9 of the funds derived annually from the sale of game and  
10 fish licenses. *Provided, further*, that the commission shall,  
11 upon the written request of twenty or more taxpayers of  
12 any county, expend in that county at least twenty per cent  
13 of all money received from such county in hunting and fish-  
14 ing license fees for the purpose of re-stocking and propa-  
15 gating fish or game.

Sec. 108. Every owner of timber land in the state of West Virginia shall furnish or provide a sufficient fire patrol during the season of the year when there is danger of forest fires, which patrol shall meet with the approval of the forestry, game and fish commission.

Sec. 109. If the owner of any forest land fails to properly patrol his or their lands, then the forestry, game and fish commission may cause the same to be patrolled and charge the cost thereof against such owner; *provided*, the aggregate amount so charged does not exceed one cent per acre per year; and if the amount so charged against such owner as cost and expense of such patrol is not paid upon presentation of a bill therefor, then it shall be the duty of the prosecuting attorney of the county in which said land or a greater part thereof is situated, at the instance of the forestry, game and fish commission or some one of its agents, to institute, in the name of the state of West Virginia, action for the recovery thereof. All moneys collected from owners of forest lands, either by suit or voluntary payment, shall be paid into the state treasury to the credit of the forestry, game and fish fund. But the foregoing provisions shall not apply to corporations, firms or individuals who are members of and contributing to the various fire protective associations of the state of West Virginia, now in existence.

Sec. 110. *Provided*, that actual *bona fide* residents, by the owner or lessor of three hundred and sixty acres or less, on or within one and one-half miles of said tract, shall be deemed to constitute reasonable and adequate protection for such tract, but such residence shall not relieve the owner, his agents or employees from responsibility for the control and suppression of fires occurring on such tract, or entitle such owner to compensation from the county for the time spent by him, his agents or employees in controlling or suppressing any fire that threatens or occurs thereon.

Sec. 111. *Provided*, also, that the degree of protection required on a given tract of land shall not exceed that required on adjoining tracts in the same protective unit, and that in no case shall the total cost of protection assessed against the land by the state exceed one cent per acre per annum.

Sec. 112. For the purpose of this act, any land shall be considered timber land which has enough timber standing or down to constitute, in the judgment of the state forestry, game and fish commission, a fire menace to itself or adjoining lands; *provided, however*, that nothing in this section contained shall be construed to include lands under cultivation or in grass; and *provided further*, that nothing contained herein shall be construed so as to include within the provisions of this section any land which is an isolated fire risk unless a forest fire thereon would imperil the lands of any adjoining land owner or land owners.

Sec. 113. Nothing in this act shall be construed to relieve the owner, lessee or user of any land from civil liability for damage resulting from any fire for which their agents or employees may be responsible.

Sec. 114-115. For the purpose of providing increased protection to forest property from fire originating along railroads, any steam railroad company shall have the right, subject to the provisions of this section, without liability for trespass, to enter upon forest or brush lands for a distance of fifty feet from the railroad right of way and to clear from such a strip any inflammable material such as leaves, grass, dead trees, slash and brush, but shall not remove any valuable timber growth or other things of value without consent of and recompense to the owner. Not less than fifteen days prior to clearing such land, the railroad company shall give the owner thereof notice of its intention, together with a transcript of this section, by letter deposited in the United States mail to his last known address. If the owner shall not file an objection to such clearing with the forestry, game and fish commission within ten days of the date of said notice he shall be deemed to have given consent. Upon the filing by an owner of such objection showing cause why such clearing should not be done the forestry, game and fish commission shall review the case and may sustain the objection of the owner or permit the clearing in whole or in part.

Nothing contained in this act shall apply to temporary steam tram roads used for hauling logs and lumber.

Sec. 116. In all criminal action and all civil action for any injury occasioned by fire communicated by burning or clearing land, the fact that such fire was so communicated shall

4 be *prima facie* evidence of negligence on the part of the per-  
5 son or agent or employee or any other person who shall at  
6 the time of such injury by fire be in the use and occupa-  
7 tion of the land on which the burning was done and of  
8 those who shall at such time have care and management of  
9 such burning.

Sec. 117. The game, forestry and fish commission,  
2 with the consent of the governor, shall have the power and  
3 right to purchase, in the name of the state, out of any un-  
4 used funds in the hands of the commission under this chap-  
5 ter, lands suitable for forest culture, forest parks or for  
6 game and fish refuges. Such purchase may be made on terms  
7 requiring not less than one-third of the purchase price to be  
8 paid down at the time of the conveyance and the residue  
9 in not less than one and two years after date. The com-  
10 mission may also receive any gift of any such lands, whether  
11 by deed or will. In case of gifts, or purchases, the fee simple  
12 title shall pass to the state.

Sec. 118. When any such lands have been so acquired, the  
2 commission shall have power to protect, preserve and main-  
3 tain the same as state forests, state forest parks, or game  
4 and fish refuges, for the propagation and distribution of  
5 forest trees, and for the protection, propagation and dis-  
6 tribution of the fish, wild animals, and birds on the same,  
7 and may prescribe and enforce rules and regulations, con-  
8 sistent with the laws of this state, in order to carry out that  
9 object. The commission may prescribe and enforce rules  
10 prohibiting all fishing and hunting, catching, trapping, cap-  
11 turing and killing of fish, wild animals and birds upon such  
12 state forests, state forest parks and game and fish refuges,  
13 for such length of time as it may deem proper.

Sec. 119. The commission shall investigate the water-sheds  
2 of the Gauley, Williams, Greenbrier, Elk, Cheat, Tygart's Val-  
3 ley, New, Blue-Stone, Potomac, Coal, Guyandotte, and other  
4 rivers of the state, and report to the governor what lands  
5 thereon are suitable for the purposes of state forests, forest  
6 parks and game and fish refuges, together with all informa-  
7 tion obtainable as to the proper value and the adaptability of  
8 such lands for such purposes.

*Article X. General Criminal Provisions.*

Sec. 120. The commission may cause complaint to be  
2 made and proceedings to be instituted and prosecuted against  
3 any violators under this chapter, without the sanction of the  
4 prosecuting attorney of the county wherein such proceedings  
5 are instituted, and in all such cases no security for costs shall  
6 be required of the commission. The commission may em-  
7 ploy an attorney to represent it in any prosecution under  
8 this chapter, and in such case there shall be taxed as costs,  
9 in case of conviction, the sum of ten dollars in each case, in  
10 addition to the usual amount lawfully taxed, which ten dollars  
11 shall be for the benefit of and paid to such attorney as and  
12 for his compensation.

Sec. 121. The commission shall have the right to offer  
2 and pay, in its discretion, rewards for information respecting  
3 the violation, or for the apprehension and conviction of any  
4 violators, of any of the provisions of this chapter.

Sec. 122. Justices of the peace shall have concurrent jur-  
2 isdiction with the circuit or other criminal courts of all mis-  
3 demeanors arising under this chapter.

Sec. 123. Any person who hinders, obstructs or interferes  
2 with, or who attempts to hinder, obstruct or interfere with,  
3 the game protector, or any other officer named herein, in the  
4 performance of his duties, shall be deemed guilty of a mis-  
5 demeanor, and, upon conviction thereof, shall be fined not  
6 less than fifty nor more than two hundred dollars, or may  
7 be confined in jail not more than six months, for each offense,  
8 or may in the discretion of the court, be both fined and  
9 imprisoned within the limitations aforesaid.

Sec. 124. Any person violating any of the provisions of  
2 this chapter, the punishment for which is not prescribed  
3 shall be guilty of a misdemeanor, and, upon conviction there-  
4 of, shall for each offense be fined not less than twenty nor  
5 more than one hundred dollars, or confined in jail not less  
6 than ten nor more than one hundred days, or both fined and  
7 imprisoned within the limitations aforesaid; and in the case  
8 of violation by a corporation, every officer or agent thereof  
9 directing or engaged in such violation shall be guilty and  
10 punished as aforesaid.

11 The provisions of this act shall be in effect on and after  
12 the first day of July, nineteen hundred and twenty-nine.

## CHAPTER 14

(House Bill No. 218—By Mr. Hull)

AN ACT creating the state water commission, defining its powers and duties, providing for necessary stenographic, clerical and other assistance, procedure by the commission and enforcement of its orders and the review thereof by the courts, and providing for research procedure by the said commission.

[Passed March 2, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec.

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|---|--|
| <ol style="list-style-type: none"> <li>1. Definitions.</li> <li>2. State water commission created; expenses of; assistance to.</li> <li>3. Organization of; clerical and other assistance, how paid; order and meetings of commission.</li> <li>4. Right to enter premises.</li> <li>5. Citation by commission for pollution of water; provisions con-</li> </ol> | <ol style="list-style-type: none"> <li>cerning.</li> <li>6. How pollution controlled or eliminated; orders concerning.</li> <li>7. Reviews of orders by circuit court; prosecuting attorney to represent commission.</li> <li>8. Duties of commission concerning pollution.</li> <li>9. Not to repeal section 20, chapter 62 of code.</li> </ol> |
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*Be it Enacted by the Legislature of West Virginia:*

Section 1. Terms used in this act are defined as follows:

2 The term "commission" shall mean the state water commis-  
 3 sion, hereby created, and the term "commissioner" shall  
 4 mean a member of said commission. The term "water" or  
 5 "waters" shall mean all waters of any river, stream, water-  
 6 course, pond or lake. The term "pollution" shall mean the  
 7 contaminating or rendering unclean or impure of any water  
 8 by any act prohibited by section twenty of chapter sixty-two  
 9 or section twenty-c and twenty-d of chapter one hundred and  
 10 fifty of Barnes' code of West Virginia, edition one thousand  
 11 nine hundred and twenty-three. The term person shall  
 12 mean any and all persons natural or artificial including  
 13 any municipal or private corporation organized or existing  
 14 under the laws of this or any other state or country, and as  
 15 well any firm or association.

Sec. 2. On and after the date this act shall go into effect,  
 2 the commissioner of health, the chairman of the public serv-  
 3 ice commission of West Virginia and the chairman of the  
 4 West Virginia game and fish commission, and their succes-  
 5 sors in office, shall constitute the state water commission and  
 6 shall serve as commissioners thereof without additional com-  
 7 pensation; they shall be reimbursed, out of moneys appro-  
 8 priated for such purposes, all sums which they necessarily  
 9 shall expend in the discharge of their duties as members of

10 such commission. The director of the division of sanitary en-  
11 gineering in the state health department shall, without addi-  
12 tional compensation, perform such services as said commis-  
13 sion may request of him in connection with its duties here-  
14 under; he shall be reimbursed, out of moneys appropriated  
15 for such purposes, all sums which he necessarily shall expend  
16 in the performance of such services. Nothing contained in  
17 this act, however, shall be construed to limit or interfere with  
18 the power of the state health department to select, employ  
19 and direct the director of the division of sanitary engineering  
20 of said department, or any employee thereof who in any way  
21 may perform any services for the commission. The college  
22 of engineering at West Virginia university, under the direc-  
23 tion of the dean thereof, shall, insofar as it can, without  
24 interference with its usual and regular activities, aid and  
25 assist the commission in the study and research of questions  
26 connected with pollution of waters. The dean of the college  
27 of engineering shall be reimbursed, out of moneys appro-  
28 priated for such purposes, any and all sums which he neces-  
29 sarily shall expend in the performance of any services he  
30 may render to the commission under the provisions hereof.

Sec. 3. Said commission shall elect from its membership a  
2 chairman and also elect a secretary, who need not be a mem-  
3 ber. The commission may employ such stenographic, clerical  
4 and other assistance as shall necessarily be required, and  
5 whose duties shall be defined by the commission, and whose  
6 compensation, to be fixed by the commission, shall be paid  
7 out of the state treasury, out of moneys appropriated for such  
8 purpose, upon the requisition of said commission. All orders  
9 of the said commission shall be entered in a permanently  
10 bound record book, properly indexed and the same carefully  
11 preserved. Copies of orders entered by the commission, as  
12 well as copies of papers or documents filed with it, or the  
13 records of proceedings before the commission, shall be at-  
14 tested by the secretary of the commission. Said commission  
15 shall meet at such times or places as agreed upon by the  
16 commissioners, or upon call of its chairman, to take up any  
17 matters proper or necessary to be considered by it.

Sec. 4. Any commissioner or any assistant or employee of  
2 said commission may, at any reasonable time, enter any prem-

3 ises while engaged in the performance of duty under the  
4 provisions of this act.

Sec. 5. Any person, causing the pollution of any water,  
2 or alleged to be causing the pollution of any water,  
3 may be cited by the commission on its own motion,  
4 and shall, upon the petition of any person, affected  
5 by such pollution, be cited to appear, not less than  
6 fifteen nor more than thirty days from the service  
7 of such citation, before said commission at a place  
8 designated by it, then and there to show cause, if any shall  
9 exist, why said commission should not issue an order regulat-  
10 ing such pollution, and any person, affected by such  
11 pollution, may by petition intervene as a party com-  
12 plainant or respondent, in any proceeding instituted  
13 by or before such commission. Such citation may be issued  
14 by the commission or any member thereof and may be served  
15 and returned in the same manner as process in any civil  
16 action, or it may be served by sending a copy thereof by  
17 registered mail addressed to the person causing, or  
18 alleged to be causing, any pollution of any water, at  
19 his, their or its usual, or last known, post office address.  
20 Any commissioner may issue any subpoena, administer oaths  
21 and cause the attendance of witnesses, the production of evi-  
22 dence and testimony in any proceeding before the commission,  
23 subject to the same conditions as are provided by the general  
24 statutes for the attendance of witnesses and the production  
25 of evidence and testimony in civil actions.

Sec. 6. If upon hearing, the commission shall find that  
2 any person, is polluting any of the waters of the state, it shall  
3 make and enter an order directing such person to cease such  
4 pollution or to install, use and operate some practical and rea-  
5 sonably available system or means which will reduce, control or  
6 eliminate or reduce to a harmless minimum such pollution, hav-  
7 ing regard for the rights and interests of all persons concerned,  
8 *provided* the cost of installation, maintenance and operation  
9 thereof shall not be unreasonable or inequitable. Such order  
10 may specify the particular system or means to be used or op-  
11 erated; or if there shall be more than one such practicable and  
12 reasonably available system or means, such order shall give  
13 to such person the right to choose which one of such systems

14 or means shall be employed. Such order shall specify the time  
15 reasonable under the circumstances within which such system  
16 or means shall be used or the operation thereof commenced  
17 and such time may be extended by the commission within rea-  
18 sonable limits upon application made to it by the person,  
19 to whom such an order shall have been directed and any such  
20 order may, upon application of any person affected, be modi-  
21 fied by the commission in any other particular not incon-  
22 sistent with the provisions hereof. If any such order shall  
23 not specify the system or means to be used or operated, the  
24 person, against whom such order shall be issued shall, be-  
25 fore proceeding to install any system or means, submit to the  
26 commission for its consideration and action a plan or  
27 statement describing the system or means which is pro-  
28 posed to be used or operated; if any person, shall  
29 desire to make any substantial change in any sys-  
30 tem or means used or operated, such person, shall,  
31 before making such change, file with the commis-  
32 sion for its consideration and action a plan or state-  
33 ment describing such proposed change, together with  
34 application for the action of the commission there-  
35 on and in respect thereto. The commission shall, in  
36 any such case, enter an order approving, or dis-  
37 approving, any such system or means proposed to be  
38 used or operated, or permit or refuse to permit the pro-  
39 posed change in any system or means adopted, used or  
40 operated, and shall make and enter all such orders as the  
41 commission deems proper and necessary. Any order of the  
42 commission may, at any time after at least twenty days notice  
43 in writing to any person affected thereby and any  
44 intervening petitioner, and after a hearing thereon, be  
45 modified or revoked by an order entered by the commis-  
46 sion. The commission shall forthwith cause an attested copy of  
47 any order entered by it to be served upon all persons, af-  
48 fected thereby in the same manner as writs or summons, in  
49 civil actions may be served, or by sending the same by regis-  
50 tered mail to such person, or intervener, at his, their or its  
51 usual, or last known, post office address. The commission may  
52 cause the enforcement of any order issued by it to control,  
53 eliminate or reduce to a harmless minimum, the pollution of  
54 any water, and as well all other orders entered by it in matters

55 subject to its jurisdiction, by application to the circuit court of  
56 any county wherein the alleged pollution originated or natu-  
57 rally flows or to any judge of such court if the same shall be  
58 in vacation, to enjoin any person from continuing such pollu-  
59 tion, which application shall be brought and the proceedings  
60 thereon conducted by the prosecuting attorney of the county  
61 wherein such proceedings may be pending, or by special coun-  
62 sel employed by any intervening petitioner.

Sec. 7. Such circuit court of the county shall have  
2 jurisdiction, by *certiorari*, to review any order of said  
3 commission upon the application of any person or  
4 intervener aggrieved by such order. Upon the hear-  
5 ing, such circuit court may hear and consider any  
6 pertinent and relevant evidence either party or any  
7 intervener may offer, and shall determine all ques-  
8 tions arising on the law and evidence and render  
9 such judgment or make such order upon the whole matter,  
10 as law and equity may require. The supreme court of appeals  
11 of the state shall have jurisdiction to review the judgment  
12 of the circuit court upon application of either party or any  
13 intervener. The prosecuting attorney of the county wherein  
14 the *certiorari* proceedings are had shall represent the com-  
15 mission in the circuit court and the attorney general of the  
16 state shall represent it in any proceedings in the supreme  
17 court of appeals, and any intervener may be represented by  
18 counsel specially employed.

Sec. 8. The commission shall study questions arising in  
2 connection with pollution of waters in the state and make re-  
3 ports and recommendations in respect thereto; and, in co-  
4 operation with the college of engineering at West Virginia  
5 university, make research, investigation and scientific experi-  
6 ments in efforts to discover economical and practical methods  
7 for elimination, disposal and treatment of industrial wastes  
8 and the control and correction of stream pollution; and to this  
9 end the commission may co-operate with any public or private  
10 experimental agency and receive therefrom, on behalf of the  
11 state, and for deposit in its treasury, any money which such  
12 agency may contribute as its part of the expense thereof.

Sec. 9. Nothing in this act contained shall be so interpreted  
2 or construed as to in any way repeal, supersede or modify  
3 section twenty of chapter sixty-two of Barnes' code of West

4 Virginia, edition one thousand nine hundred and twenty-three,  
5 or sections six-*a*, twenty-*c* or twenty-*d* of chapter one hundred  
6 and fifty of said code; all other acts and parts of acts in-  
7 consistent herewith are hereby repealed.

## CHAPTER 15

(House Bill No. 240—Originating in the Committee on Taxation and Finance)

AN ACT directing the board of public works to lay a special levy upon all the taxable property in this state, for the purpose of the construction of the main unit of the capitol building; appropriating the moneys so raised and the receipts from any special 'Capitol Building' revenue measures, for such purpose and to authorize the governor and the capitol commission to contract for the construction of and to construct the said main unit of the said capitol building; and providing penalties.

[Passed March 2, 1929; in effect from passage. Approved by the Governor.]

### SEC.

- |  |   |
|--|---|
| <p>1. Board of public works to lay special levy to construct main unit of capitol.</p> <p>2. Capitol building fund created; payments from.</p> | <p>3. Appropriation of funds raised by special levy.</p> <p>4. Governor and capitol commission to construct main unit; maximum cost of.</p> <p>5. Inconsistent acts repealed.</p> |
|--|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of public works is directed to lay a special levy upon all the taxable property in this state, not to exceed in any one year the sum of five cents or so much thereof as may be necessary on the one hundred dollars valuation of said taxable property, for each of the fiscal years beginning July first one thousand nine hundred and twenty-nine, one thousand nine hundred and thirty, one thousand nine hundred and thirty-one, one thousand nine hundred and thirty-two and one thousand nine hundred and thirty-three, for the purpose of constructing the main unit of the capitol building as authorized by the acts of the legislature of one thousand nine hundred and twenty-seven, chapter one first extraordinary session.

Sec. 2. There is hereby created a fund in the state treasury to be known as "Capitol Building Fund" in which shall be

3 deposited all moneys raised by the special levy provided for  
4 in section one of this act and receipts from any other special  
4-a 'Capitol Building' revenue measures and which fund shall be  
5 used for the construction of the main unit of the capitol building  
6 and for no other purpose whatsoever. All payments from said  
7 "Capitol Building Fund" shall be made only upon order of  
8 the governor and capitol building commission.

Sec. 3. There is hereby appropriated out of the funds to be  
2 raised by special levy and revenues as provided in sections one  
3 and two of this act, the sum of one million dollars annually for  
4 the fiscal years beginning July first, one thousand nine hundred  
5 and twenty-nine, one thousand nine hundred and thirty, one  
6 thousand nine hundred and thirty-one, one thousand nine hun-  
7 dred and thirty-two and one thousand nine hundred and thirty-  
8 three, for the purpose of the construction of the main unit of  
9 the capitol building as authorized by the acts of the legislature  
10 of one thousand nine hundred and twenty-seven, first extra-  
11 ordinary session, chapter one but the governor and capitol com-  
12 mission shall not, in any event, contract for the expenditure of,  
13 nor expend more than five million dollars for the purpose of  
14 this bill, and any contract made or entered into in excess of  
15 that amount shall be null and void under the provisions of this  
16 act.

Sec. 4. The governor, and the capitol commission created  
2 by chapter one, acts of the legislature, first, extraordinary  
3 session of one thousand nine hundred twenty-seven, are here-  
4 by empowered and directed to proceed with all reasonable  
5 dispatch to contract for the construction and erection of, and  
6 to construct and erect the main unit of said capitol building,  
7 under the supervision and direction of the architect, at a total  
8 cost not to exceed five million dollars, as provided in said  
9 chapter one, acts of the legislature, first extraordinary ses-  
10 sion of one thousand nine hundred twenty-seven.

Sec. 5. All acts and parts of acts inconsistent with the pro-  
2 vision of this act are hereby repealed.

## CHAPTER 16

(House Bill No. 329—By Mr. Gay)

AN ACT amending and re-enacting sections fourteen, twenty, thirty-six and thirty-seven of chapter eighty-eight of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-five as amended by chapter twenty-four of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-seven and to insert therein a new section to be known as section seven-a, relating to the state department of mines.

[Passed March 5, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec.

7-a. Additional inspectors at large; salary.

14. Removal of dust.

20. When approved safety or electric

lamps to be used; exceptions.

36. Electric haulage locomotives.

37. Flame proof, electric coal-cutting machines; examination for operators.

*Be it enacted by the Legislature of West Virginia:*

That sections, fourteen, twenty, thirty-six and thirty-seven of chapter eighty-eight, acts of the legislature of West Virginia of one thousand nine hundred and twenty-five as amended by chapter twenty-four, acts of the legislature of West Virginia of one thousand nine hundred and twenty-seven, be amended and re-enacted and that a new section to be known as section seven-a be inserted therein, so as to read as follows:

Section 7-a. In addition to the twenty-five inspectors provided for in section seven of chapter eighty-eight of the acts of the legislature of one thousand nine hundred and twenty-five, the chief of the department of mines is hereby authorized to appoint three inspectors-at-large. Said inspectors-at-large shall have the same qualifications as are required of district mine inspectors and shall receive the same salary as paid to district mine inspectors, together with their actual traveling expenses while engaged in the performance of their duties.

Sec. 14. In all mines accumulations of fine dry coal dust shall, as far as practicable, be removed from the mine and all dry and dusty operating sections kept thoroughly watered down or rock dusted or dust allayed by such other methods as may be approved by the state department of mines.

Sec. 20. Mines which liberate explosive gas from the coal or adjacent strata in dangerous quantities, and where three-

3 fourths of one per cent is determined by air analysis, or  
4 other approved methods, on return air currents shall, upon  
5 order of the chief of the state department of mines, be  
6 worked exclusively by the use of approved safety lamps, or  
7 approved electric lamps, and in such mine or mines no open  
8 lamps or torch shall be used except as may be permitted in  
9 writing by the chief of the said department of mines; *pro-*  
10 *vided, however,* the foregoing provision requiring the use of  
11 approved safety lamps or approved electric lamps shall not  
12 be effective in mines or sections of mines where the ventila-  
13 tion may be increased in sufficient volume to dispel, eliminate  
14 or reduce the methane content below the percentage heretofore  
15 mentioned. In mines where flame safety lamps and approved  
16 electric lamps are required to be used for working therein.  
17 The lamps shall be in charge of some person to be designated  
18 by the mine superintendent; and at least two additional  
19 flame safety lamps shall be kept at every coal mine whether  
20 such mine liberates explosive gas or not. All mine foremen  
21 and fire bosses employed in gaseous mines shall, at all times,  
22 carry an approved flame safety lamp for the purpose of de-  
23 tecting the presence of explosive gas, said lamp to be kept  
24 lighted at all times when in use inside the mines.

Sec. 36. Any mine worked by safety or approved electric  
2 lamps shall work electric haulage locomotives operated from  
3 trolley wire upon the intake airway fresh from the outside;  
4 except where permission is granted by the chief of the state  
5 department of mines, such mine may operate such locomotive  
6 on the return airways.

Sec. 37. In gaseous mines the chief of the department of  
2 mines may designate where flame proof electric coal-cutting  
3 machines shall be used.

4 No man shall be placed in charge of a coal-cutting machine  
5 in any gaseous portion of a mine who is not a competent  
6 person, capable of determining the safety of the roof and  
7 the sides of the working places and detecting the presence  
8 of explosive gas. Machine runners shall be compelled to  
9 undergo an examination to determine their fitness to detect  
10 explosive gas before they are permitted to have charge of  
11 machines in mines liberating gas, unless they be accompanied  
12 by a certified fire boss, or a machine runner or helper having  
13 passed such an examination. Said examination to be given

14 by the mine foreman, blank forms for same to be furnished  
15 by the department of mines, a copy to be retained on file at  
16 the mine office and the original sent to the state department  
17 of mines, fully made out and signed by the machine runner  
18 and mine foreman.

## CHAPTER 17

(House Bill No. 346—By Mr. Robson)

AN ACT to amend and re-enact section four of chapter eighty-eight of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-five, relating to the qualifications and compensation of the chief of the state department of mines.

[Passed March 8, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

4. Chief of department of mines, qualifications and salary.

*Be it enacted by the Legislature of West Virginia:*

That section four of chapter eighty-eight of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-five be amended and re-enacted to read as follows:

Section 4. The chief of the department of mines shall be  
2 a male citizen of West Virginia, and shall be a competent  
3 person, having had at least eight years experience in the  
4 working, ventilation and drainage of coal mines, two years  
5 of which having been in this state, and having a practicable  
6 and scientific knowledge of all noxious and dangerous gases  
7 found in such mines. A diploma from any accredited en-  
8 gineering school shall qualify as two years working ex-  
8-a perience. He shall devote all of his time to the duties of  
9 his office, and shall not be directly or indirectly interested in  
10 a financial way in any coal mines in this state.

12 The salary of the chief of the department of mines shall  
13 be seven thousand dollars *per annum*, and traveling expenses,  
14 which shall be paid monthly out of the state treasury upon  
15 a requisition upon the state auditor, properly certified by the  
16 chief of the department of mines.

## CHAPTER 18

(Senate Bill No. 208—By Mr. Hugus)

AN ACT to provide for submission to the voters of the state of an amendment to the constitution of the state, amending article eight of the constitution, by adding section thirty-one thereto.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

- |  |  |
|--|--|
| <p>1. Amendment to section thirty-one, article eight of the constitution submitted to voters; subject matter of amendment.</p> <p>2. Name of proposed amendment.</p> <p>3. Form of ballot.</p> | <p>4. Certification of result; certificate of board of canvassers.</p> <p>5. Duty of Governor to proclaim result.</p> <p>6. Publication of proposed amendment by governor.</p> |
|--|--|

*Be it enacted by the Legislature of West Virginia:*

That article eight of the constitution be proposed for amendment by adding thereto section thirty-one; relating to matters of probate, so as to read as follows:

Section. 1. The question of the ratification or rejection of an amendment of the constitution of West Virginia proposed in accordance with the provision of section two of article fourteen, of said constitution, shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred and thirty, which proposed amendment is as follows:

*Proposed Amendment*

That article eight of said constitution of West Virginia be amended by adding section thirty-one, to read as follows:

Sec. 31. Jurisdiction in all matters of probate, the appointment and qualification of personal representatives, guardians, committees and curators, and the settlement of their accounts, shall hereafter be vested exclusively in the circuit court. Provision shall be made by the legislature for the appointment by each circuit court of a probate commissioner in each county who may be authorized by general law to exercise the powers and discharge the duties of the circuit court with respect to all or any of the matters above mentioned in this section, under the supervision and subject to the control of said court. Said probate commissioner shall hold office at the pleasure of said circuit court, but his compensation shall be fixed by general law.

Sec. 2. For convenience in referring to said proposed  
 2 amendment and in the preparation of the form of the ballot  
 3 hereinafter provided for, said proposed amendment is hereby  
 4 designated as follows: To be known as "probate amendment."

Sec. 3. For the purpose of enabling the voters of the state  
 2 to vote on the question of said proposed amendment to the con-  
 3 stitution, at said general election to be held in the year one  
 4 thousand nine hundred and thirty, the board of ballot commis-  
 5 sioners of each county are hereby required to prepare separate  
 6 ballots from that of the ballot to be voted at said election, and  
 7 print thereon the following:

8 *Ballot of Constitutional Probate Amendment*

9 Amending article eight of the constitution by adding section  
 10 thirty-one.

11  For ratification of probate amendment.

12  Against ratification of probate amendment.

13 The said election on the proposed amendment at each place  
 14 of voting shall be superintended, conducted and returned, and  
 15 the result thereof ascertained, by the same officers and in the  
 16 same manner as the election of officers to be voted for at said  
 17 election; and all of the provisions of the law relating to general  
 18 elections, including all duties to be performed by any officer or  
 19 board, as far as applicable and not inconsistent with anything  
 20 herein contained, shall apply to the election held under the  
 21 provisions of this act, except when it is herein otherwise pro-  
 22 vided. The ballots cast on the question of said proposed amend-  
 23 ment shall be counted as other ballots cast at said election.

Sec. 4. As soon as the result is ascertained the commis-  
 2 sioners, or a majority of them, and the canvassers (if there be  
 3 any) or a majority of them, at each place of voting, shall make  
 4 out and sign two certificates thereof in the following form or  
 5 to the following effect: We, the undersigned, who acted as com-  
 6 missioners (or canvassers, as the case may be), of the election  
 7 held at ..... in the district of ....., in the  
 8 county of ....., on the ..... day of .....  
 9 one thousand nine hundred and thirty, upon the question of

10 the ratification or rejection of the proposed constitutional  
11 amendment to article eight by the addition thereto of section  
12 thirty-one, do hereby certify that the result of said election is  
13 as follows:

14 Amending article eight by the addition thereto of section  
15 thirty-one:

16 For ratification of probate amendment ..... votes.

17 Against ratification of probate amendment ..... votes.

18 Given under our hands this ..... day of .....,

19 one thousand nine hundred and thirty. The said two certificates  
20 shall correspond with each other in all respects, and contain  
21 the full and true returns of said election at each place voting  
22 on said question. The said commissioners, or any of them,  
23 (or said canvassers, or one of them, as the case may be), shall  
24 within four days, excluding Sundays, after that on which said  
25 election was held, deliver one of said certificates to the clerk of  
26 the county court of his county, together with the ballots and  
27 the other to the clerk of the circuit court of the county.

28 The said certificates, together with the ballots cast on the  
29 question of said proposed amendment shall be laid before the  
30 commissioners of the county court at the court house at the  
31 same time the ballots, poll books and the certificates of the  
32 election for the members of the legislature are laid before them;  
33 and as soon as the result of said election in the county upon  
34 the question of such ratification or rejection is ascertained, two  
35 certificates of such result shall be made out and signed by said  
36 commissioners, as a board of canvassers, in the form or to the  
37 following effect;

38 We the board of canvassers of the county of .....  
39 having carefully and impartially examined the returns of the  
40 election held in said county, in each district thereof, on the  
41 ..... day of November, one thousand nine hundred  
42 and thirty, do certify that the results of the election in said  
43 county, on the question of the ratification or rejection of the  
44 proposed amendment to article eight by the addition thereto  
45 of section thirty-one, is as follows:

46 For ratification of probate amendment ..... votes.

47 Against ratification of probate amendment ..... votes.

48 Given under our hand this ..... day of .....,

49 one thousand nine hundred and thirty.

50 One of the certificates shall be filed in the office of the clerk  
51 of the county court, and the other forwarded by mail to the  
52 secretary of state who shall file and preserve the same until  
53 the day on which the result of said election in the state is to be  
54 ascertained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held,  
2 or as soon thereafter as practicable, the said certificates shall  
3 be laid before the governor, whose duty it shall be to ascertain  
4 therefrom the result of said election in the state, and declare  
5 the same by proclamation published in one or more newspapers  
6 printed at the seat of government. If a majority of the votes  
7 cast at said election upon said question be for the ratification  
8 of said amendment, the proposed amendment, so ratified shall  
9 be of force and effect from and after the time of such ratifica-  
10 tion, as part of the constitution of the state.

Sec. 6. The governor shall cause the said proposed amend-  
2 ment, with the proper designation for the same as hereinbefore  
3 adopted, to be published one time at least three months before  
4 such election, in some newspaper in every county in which a  
5 newspaper is printed, at a price to be agreed upon in advance,  
6 in writing, and the cost of such advertising shall be in the  
7 first instance, if found necessary by him, paid out of the  
8 governor's contingent fund and be afterwards repaid to such  
9 fund by appropriation of the legislature.

## CHAPTER 19

(Senate Bill No. 230—By Mr. Smith of Marion)

AN ACT to provide for the submission to the voters of the state  
of West Virginia an amendment to the constitution of the  
state, amending section one and section sixteen of article seven  
thereof.

[Passed March 8, 1929; in effect ninety days from passage. Approved by the  
Governor.]

- |   |   |
|---|---|
| <p>Sec.<br/>1. Executive department, of whom to consist, terms of office and residence; lieutenant governor as president of senate; salary; election for lieutenant governor; president pro tempore of senate.</p> <p>16. Succession to governorship.</p> | <p>2. Name of proposed amendment.</p> <p>3. Form of ballot; how election conducted and returns.</p> <p>4. Certificates of commissioners and board of canvassers.</p> <p>5. Duty of governor to proclaim result.</p> <p>6. Governor to publish proposed amendment.</p> |
|---|---|

*Be it enacted by the Legislature of West Virginia:*

That the question of the ratification or rejection of an amendment to section one and section sixteen of article seven of the constitution of West Virginia, proposed in accordance with the provisions of section two of article fourteen of said constitution, shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred and thirty, which proposed amendment is as follows:

That section one and section sixteen of article seven of the constitution of the state of West Virginia is to be amended so as to read as follows:

Section 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, state superintendent of free schools, auditor, treasurer, commissioner of agriculture and attorney-general who shall be *ex-officio* reporter of the court of appeals. Their terms of office respectively shall be for four years and shall commence on the first Monday following the second Wednesday in January next after their election. They shall, except the lieutenant-governor, reside at the seat of government during their terms of office, and keep there the public records, books, and papers pertaining to their respective offices and shall perform such duties as may be prescribed by law. The lieutenant-governor shall be President of the Senate and shall be entitled to vote only in case of a tie. His salary shall not exceed one thousand dollars *per annum*. An election for lieutenant-governor shall be held at the same time and in the same manner as the election for governor, and a contest therefor determined in the same manner. The Senate shall choose a president *pro-tempore* in the absence or disability of the lieutenant-governor or when he shall exercise the office of governor of the state.

Sec. 16. In case of the death, conviction or impeachment, failure to qualify, resignation or other disability of the governor, the lieutenant-governor shall act as governor until the expiration of the term thereof or until the disability is removed; and if the lieutenant-governor, for any of the above named causes shall become incapable of performing the duties of governor, the same shall devolve upon the President *pro-tempore* of the Senate and if he is unable to act, then upon



3 or a majority of them, at each place of voting, shall make out  
4 and sign two certificates thereof in the following form or to the  
5 following effect:

6 "We the undersigned, who acted as commissioners (or can-  
7 vassers, as the case may be), of the election held at.....  
8 in the district of....., in the county of  
9 ....., on the...day of.....,

10 one thousand nine hundred and thirty, upon the question of  
11 the ratification or rejection of the proposed constitutional  
12 amendment to section one and section sixteen to article seven,  
13 do hereby certify that the result of said election is as follows:

14 Amending section one and section sixteen of article seven.

15 For ratification of lieutenant-governor and succession to  
16 governorship amendment.....votes.

17 Against ratification of lieutenant-governor and succession to  
18 governorship amendment.....votes.

19 Given under our hands this.....day of.....,  
20 one thousand nine hundred and thirty.

21 The said two certificates shall correspond with each other in  
22 all respects, and contain the full and true returns of said elec-  
23 tion at each place of voting on said question. The said com-  
24 missioners, or any of them, (or said canvassers or one of them,  
25 as the case may be), shall within four days, excluding Sun-  
26 days, after that on which said election was held, deliver one of  
27 said certificates to the clerk of the county court of his county,  
28 together with the ballots and the other to the clerk of the cir-  
29 cuit court of the county.

30 The said certificates, together with the ballots cast on the  
31 question of said proposed amendment, shall be laid before  
32 the commissioners of the county court at the court house at the  
33 same time the ballots, poll books and the certificates of election  
34 for the members of the legislature are laid before them; and  
35 as soon as the result of said election in the county upon the  
36 question of such ratification or rejection is ascertained, two  
37 certificates of such result shall be made out and signed by said  
38 commissioners as a board of canvassers, in the form or to the  
39 following effect:

40 "We, the board of canvassers of the county of.....,  
41 having carefully and impartially examined the returns of the  
42 election held in said county, in each district thereof, on the  
43 .....day of November, one thousand nine hundred and thirty,

44 do certify that the results of the election in said county on  
 45 the question of the ratification or rejection of the proposed  
 46 amendment to section one and section sixteen of article seven  
 47 is as follows:

48 For ratification of lieutenant-governor and succession to  
 49 governorship amendment.....votes.

50 Against ratification of lieutenant-governor and succession  
 51 to governorship amendment.....votes.

52 Given under our hands this.....day of.....,  
 53 one thousand nine hundred and thirty.”

54 One of the certificates shall be filed in the office of the clerk  
 55 of the county court, and the other forwarded by mail to the  
 56 secretary of state who shall file and preserve the same until the  
 57 day on which the result of said election in the state is to be  
 58 ascertained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held, or  
 2 as soon thereafter as practicable, the said certificates shall be  
 3 laid before the governor, whose duty it shall be to ascertain  
 4 therefrom the result of said election in the state, and declare  
 5 the same by proclamation published in one or more newspapers  
 6 published at the seat of government. If a majority of the  
 7 votes cast at said election upon said question be for the ratifica-  
 8 tion of said amendment, the proposed amendment so ratified  
 9 shall be in force from the time of such ratification, as part of  
 10 the constitution of the state.

Sec. 6. The governor shall cause the said proposed amend-  
 2 ment, with the proper designation for the same as hereinbefore  
 3 adopted, to be published one time at least three months before  
 4 such election, in some newspaper in every county in which a  
 5 newspaper is printed, at a price to be agreed upon in advance,  
 6 in writing, and the cost of such advertising shall in the first  
 7 instance, if found necessary by him, be paid out of the gover-  
 8 nors contingent fund and be afterwards repaid to such fund  
 9 by appropriation of the legislature.

## CHAPTER 20

(Senate Bill No. 264—By Mr. Watkins)

AN ACT to provide for submission to the voters of the state of an amendment to the constitution of the state, amending section ten of article eight of the constitution.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec.

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|--|--|
| <ol style="list-style-type: none"> <li>1. Submitting proposed constitutional amendment to the voters of the state amending section ten of article eight relating to circuit court judges.</li> <li>2. Name of proposed amendment.</li> </ol> | <ol style="list-style-type: none"> <li>3. Form of ballot.</li> <li>4. Certificates of result by commissioners and board of canvassers.</li> <li>5. Governor to proclaim result.</li> <li>6. Governor to publish proposed amendment.</li> </ol> |
|--|--|

*Be it enacted by the Legislature of West Virginia:*

That section ten of article eight of the constitution be proposed for amendment; relating to circuit courts.

Section 1. The question of the ratification or rejection of an amendment of the constitution of West Virginia proposed in accordance with the provision of section two of article fourteen of said constitution, shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred and thirty, which proposed amendment is as follows:

8

### *Proposed Amendment*

9 That section ten of article eight of said constitution of West  
10 Virginia be amended to read as follows:

Section 10. The legislature shall divide the state into circuits, and shall determine the number of judges to be elected in each circuit. Each of the judges so elected shall hold his office for a term of eight years unless sooner removed in the manner prescribed in this constitution. The judges of the circuit courts in office when this article takes effect, shall remain therein until the expiration of the term for which they have been elected in the circuits in which they may respectively reside, unless sooner removed as aforesaid. A vacancy in the office of a judge of the circuit court shall be filled in the same manner as is provided for in the case of a vacancy in the office of a judge of the supreme court of appeals. During his continuance in office the judge of a circuit court shall reside in the circuit of which he is the judge. In those circuits where there shall be elected more than one judge, the business of the circuits shall be ap-

16 portioned between the judges thereof, in such manner as may  
 17 be prescribed by law. The judges may hold courts in the same  
 18 county or in different counties within the circuit at the same  
 19 time or at different times, as may be prescribed by law.

Sec. 2. For convenience in referring to said proposed amend-  
 2 ment and in the preparation of the form of ballot hereinafter  
 3 provided for said proposed amendment is hereby designated  
 4 as follows: to be known as "Circuit Court Amendment."

Sec. 3. For the purpose of enabling the voters of the state  
 2 to vote on the question of said proposed amendment to the con-  
 3 stitution, at said general election to be held in the year one  
 4 thousand nine hundred and thirty, the board of ballot commis-  
 5 sioners of each county are hereby required to prepare separate  
 6 ballots from that of the ballot to be voted at said election, and  
 7 print thereon the following:

8 *Ballot of Constitutional Circuit Court Amendment*

9 Amending section ten of article eight of the constitution.

10  For ratification of circuit court amendment.

11  Against ratification of circuit court amendment.

12 The said election on the proposed amendment at each place  
 13 of voting shall be superintended, conducted and returned, and  
 14 the result thereof ascertained, by the same officers and in the  
 15 same manner as the election of officers to be voted for at said  
 16 election; and all of the provisions of the law relating to general  
 17 elections, including all duties to be performed by any officer or  
 18 board, as far as applicable and not inconsistent with anything  
 19 herein contained, shall apply to the election held under the  
 20 provisions of this act, except when it is herein otherwise pro-  
 21 vided. The ballots cast on the question of said proposed amend-  
 22 ment shall be counted as other ballots cast at said election.

Sec. 4. As soon as the result is ascertained the commission-  
 2 ers, or a majority of them, and the canvassers (if there be any)  
 3 or a majority of them, at each place of voting, shall make out  
 4 and sign two certificates thereof in the following form or to  
 5 the following effect: We, the undersigned, who acted as com-  
 6 missioners (or canvassers, as the case may be) of the election  
 7 held at.....in the district of.....,  
 8 in the county of....., on the.....day of.....,  
 9 one thousand nine hundred and thirty, upon the question of

10 the ratification or rejection of the proposed constitutional  
 11 amendment to section ten of article eight, do hereby certify  
 12 that the result of said election is as follows:

13 Amending section ten of article eight:

14 For ratification of circuit court amendment.....votes.

15 Against ratification of circuit court amendment.....votes.

16 Given under our hands this.....day of.....,

17 one thousand nine hundred and thirty. The said two certifi-  
 18 cates shall correspond with each other in all respects, and con-  
 19 tain the full and true returns of said election at each place  
 20 voting on said question. The said commissioners, or any of  
 21 them, (or said canvassers, or one of them, as the case may be)  
 22 shall within four days, excluding Sundays, after that on which  
 23 said election was held, deliver one of said certificates to the  
 24 clerk of the county court of his county, together with the ballots  
 25 and the other to the clerk of the circuit court of the county.

26 The said certificates, together with the ballots cast on the  
 27 question of said proposed amendment shall be laid before the  
 28 commissioners of the county court at the court house at the same  
 29 time the ballots, poll books and the certificates of the election  
 30 for the members of the legislature are laid before them. And  
 31 as soon as the result of said election in the county upon the  
 32 question of such ratification or rejection is ascertained, two  
 33 certificates of such result shall be made out and signed by said  
 34 commissioners, as a board of canvassers, in the form or to the  
 35 following effect:

36 We, the board of canvassers of the county of.....,  
 37 having carefully and impartially examined the returns of the  
 38 election held in said county, in each district thereof, on the  
 39 .....day of November, one thousand nine hundred and  
 40 thirty, do certify that the results of the election in said county,  
 41 on the question of the ratification or rejection of the proposed  
 42 amendment to section ten of article eight is as follows:

43 For ratification of circuit court amendment.....votes.

44 Against ratification of circuit court amendment.....votes.

45 Given under our hand this.....day of.....,

46 one thousand nine hundred and thirty.

47 One of the certificates shall be filed in the office of the clerk  
 48 of the county court, and the other forwarded by mail to the  
 49 secretary of state who shall file and preserve the same until the

50 day on which the result of said election in the state is to be  
51 ascertained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held,  
2 or as soon thereafter as practicable, the said certificates shall  
3 be laid before the governor, whose duty it shall be to ascertain  
4 therefrom the result of said election in the state, and declare  
5 the same by proclamation published in one or more newspapers  
6 printed at the seat of government. If a majority of the votes  
7 cast at said election upon said question be for the ratification  
8 of said amendment, the proposed amendment, so ratified shall  
9 be of force and effect from and after the time of such ratifi-  
10 cation, as part of the constitution of the state.

Sec. 6. The governor shall cause the said proposed amend-  
2 ment, with the proper designation for the same as hereinbefore  
3 adopted, to be published one time at least three months before  
4 such election, in some newspaper in every county in which a  
5 newspaper is printed, at a price to be agreed upon in advance,  
6 in writing, and the cost of such advertising shall be in the first  
7 instance, if found necessary by him, paid out of the governor's  
8 contingent fund and be afterwards repaid to such fund by  
9 appropriation of the legislature.

## CHAPTER 21

(House Bill No. 117—By Mr. Keatley)

AN ACT to provide for the submission to the voters of the state  
of an amendment to the constitution of the state, amending  
section fifty-one of article six.

[Passed March 8, 1920; in effect ninety days from passage. Approved by the  
Governor.]

Sec.

- |  |   |
|--|---|
| <p>1. Submitting budget constitutional amendment to a vote of the people.</p> <p>51. Governor to submit budget to legislature; what budget to contain; power of legislature concerning; when governor and others to appear before the legislature concerning; supplemental appropriation bill; if budget bill not passed, when governor to ex-</p> | <p>tend session; power of governor concerning.</p> <p>2. To be known as budget amendment.</p> <p>3. Form of ballot and ascertaining result.</p> <p>4. Certificates by election commissioners; certificates by board of canvassers.</p> <p>5. Governor to declare result.</p> <p>6. Publication of proposed amendment by Governor.</p> |
|--|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the question of the ratification or rejection of an amendment to the constitution of West Virginia,

3 proposed in accordance with the provision of section two of  
4 article fourteen of said constitution, shall be submitted to the  
5 voters of the state at the next general election to be held in  
6 the year one thousand nine hundred and thirty, which pro-  
7 posed amendment is as follows:

8

*Proposed Amendment*

9 That section fifty-one of article six of said constitution, as  
10 it now is, be stricken out and the following inserted in lieu  
11 thereof:

12 Section 51. The legislature shall not appropriate any money  
13 out of the treasury except in accordance with the following  
14 provisions:

*Sub-Section-A*

2 Every appropriation bill shall be either a budget bill or a  
3 supplementary appropriation as hereinafter mentioned.

*Sub-Section-B*

2 *First.* Within ten days after the convening of the legis-  
3 lature, unless such time shall be extended by the legislature  
4 for the session at which the budget is to be submitted, the  
5 governor shall submit to the legislature two budgets, one for  
6 each ensuing fiscal year. Each budget shall contain a com-  
7 plete plan of proposed expenditures and estimated revenues  
8 for the particular fiscal year to which it relates; and shall  
9 show the estimated surplus or deficit of revenues at the end  
10 of the year. Accompanying each budget shall be a state-  
11 ment showing: One, the revenues and expenditures for each  
12 of the two fiscal years preceding; two, the current assets,  
13 liabilities, reserves and surplus or deficit of the state; three,  
14 debts and funds of the state; four, an estimate of the state's  
15 financial condition as of the beginning and end of each of  
16 the fiscal years covered by the two budgets above provided;  
17 five, any explanation the governor may desire to make as to  
18 the important features of any budget and any suggestions as  
19 to methods for the reduction or increase of the state's reve-  
20 nue.

21 *Second.* Each budget shall be divided into two parts, and  
22 the first part shall be designated "governmental appropria-  
23 tions" and shall embrace an itemized estimate of the ap-

24 appropriations; one, for the legislature as certified to the gov-  
25 ernor in the manner hereinafter provided; two, for the exe-  
26 cutive department; three, for the judiciary department, as  
27 provided by law, certified to the governor by the auditor;  
28 four, to pay and discharge the principal and interest of any  
29 debt of the state of West Virginia created in conformity  
30 with the constitution, and all laws enacted in pursuance  
31 thereof; five, for the salaries payable by the state under the  
32 constitution and laws of the state; six, for the aid of public  
33 schools in conformity with the laws of the state; seven, for  
34 such other purposes as are set forth in the constitution and  
35 laws made in pursuance thereof.

36 *Third.* The second part shall be designated "general ap-  
37 propriations," and shall include all other estimates of ap-  
38 propriations.

39 The governor shall deliver to the presiding officer of each  
40 house the budgets, and a bill for all the proposed appro-  
41 priations of the budgets clearly itemized and classified; and  
42 the presiding officer of each house shall promptly cause  
43 said bill to be introduced therein and such bill shall be  
44 known as the "budget bill." The governor may, before  
45 final action thereon by the legislature, amend or supple-  
46 ment either of said budgets to correct an oversight; or in  
47 case of an emergency, with the consent of the legislature,  
48 by delivering such an amendment or supplement to the pre-  
49 siding officers of both houses; and such amendment or sup-  
50 plement shall thereby become a part of said budget bill as  
51 an addition to the items of said bill or as a modification of  
52 or a substitute for an item of said bill such amendment or  
53 supplement may affect.

54 The legislature shall not amend the budget so as to create  
55 a deficit, but may amend the bill by increasing or diminish-  
56 ing the items therein, or inserting new items therein; *pro-*  
57 *vided, however,* that the salary or compensation of any pub-  
58 lic officer shall not be increased or diminished during his  
59 term of office.

60 When such bill has been passed by both houses it shall  
61 be immediately presented to the governor, who may approve,  
62 veto as a whole, veto any item therein, or decrease any item  
63 therein.

64 If the governor veto the bill as a whole, or any item

65 therein or decrease any item therein, he shall return the bill  
66 to the house in which it originated, together with a state-  
67 ment of his reasons for so doing. The legislature may, by  
68 a two-thirds vote of all the members elected to each branch,  
69 taken by yeas and nays, override the veto of the governor,  
70 in which case it shall become a law as originally passed, not-  
71 withstanding the veto of the governor.

72 *Fourth.* The governor and such representatives of the  
73 executive departments, boards, officers and commissions of  
74 the state, expending or applying for state moneys as have  
75 been designated by the governor for this purpose, shall have  
76 the right, and when requested by either house of the legis-  
77 lature, it shall be their duty to appear and be heard with  
78 respect to any budget bill during the consideration thereof,  
79 and to answer inquiries relating thereto.

*Sub-Section C—Supplementary Appropriation Bills.*

1 Neither house shall consider other appropriations until the  
2 budget bill has been finally acted upon by both houses, and  
3 no such other appropriation shall be valid except in accord-  
4 ance with the provisions following: One, every such appro-  
5 priation shall be embodied in a separate bill limited to some  
6 single work, object or purpose therein stated and called  
7 herein a supplementary appropriation bill; two, each sup-  
8 plementary appropriation bill shall provide the revenue nee-  
9 essary to pay the appropriation thereby made by a tax direct  
10 or indirect, to be laid and collected as shall be directed in  
11 said bill, unless it appears from such budget that there is  
12 sufficient revenue available; three, no supplementary appro-  
13 priation bill shall become a law unless it be passed in each  
14 house by a vote of a majority of the members present, and  
15 the yeas and nays recorded on its final passage; four, each  
16 supplementary appropriation bill shall be presented to the  
17 governor of the state as provided in section fourteen of article  
18 seven of the constitution, and thereafter all the provisions of  
19 said section shall apply.

20 Nothing in this amendment shall be construed as prevent-  
21 ing the legislature from passing in time of war an appropria-  
22 tion bill to provide for the payment of any obligation of the  
23 state of West Virginia within the protection of section ten  
24 of article one of the constitution of the United States.

*Sub-Section D—General Provisions.*

*First.* If the budget bill shall not have been finally acted upon by the legislature three days before the expiration of its regular session, the governor may, and it shall be his duty to issue a proclamation extending the session for such further period as may, in his judgment, be necessary for the passage of such bill; but no other matter than such bill shall be considered during such extended session, except a provision for the cost thereof.

*Second.* The governor, for the purpose of making up his budgets, shall have power and it shall be his duty to require from the proper state officials, including herein all executive departments, all executive and administrative officers, bureaus, boards, commissions and agencies expending or supervising the expenditure of, and all institutions applying for state moneys and appropriations, such itemized estimates and other information, in such form and at such times as he shall direct. The estimates for the legislative departments, certified by the presiding officer of each house, of the judiciary, as provided by law, certified by the auditor, and for the public schools, as provided by law, shall be transmitted to the governor, in such form and at such times as he shall direct, and shall be included in the budget.

The governor may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies, and of all institutions applying for state moneys. After such public hearings he may, in his discretion, revise all estimates except those for the legislative and judiciary departments and for the public schools as provided by law.

*Third.* The legislature may, from time to time, enact such laws not inconsistent with this section as may be necessary and proper to carry out its provisions.

*Fourth.* In the event of any inconsistency between any of the provisions of this section and any of the other provisions of the constitution, except amendments thereto heretofore made and ratified by the people, the provisions of this section shall prevail. But nothing herein shall be construed as preventing the governor from calling extraordinary sessions of the legislature, as provided by section seven of article seven, or as preventing the legislature at such extraordinary

41 sessions from considering any emergency appropriation or  
42 appropriations.

43 If any item of any appropriation bill passed under the  
44 provisions of this section shall be held invalid upon any  
45 ground, such invalidity shall not affect the legality of the  
46 bill or of any other item of such bill or bills.

Sec. 2. For convenience in referring to said proposed  
2 amendment and in the preparation of the form of the ballot  
3 hereinafter provided for, said proposed amendment is hereby  
4 designated as follows: To be known as "budget amendment."

Sec. 3. For the purpose of enabling the voters of the state  
2 to vote on the question of said proposed amendment to the  
3 constitution, at the said general election to be held in the  
4 year one thousand nine hundred and thirty, the board  
5 of ballot commissioners of each county is hereby required to  
6 prepare separate ballots from that of the official ballot to be  
7 voted at said election, and print thereon the following:

8 *Ballot on Constitutional Budget Amendment*

8-a Amending section fifty-one of article six

9  For ratification of budget amendment.

10  Against ratification of budget amendment.

11 The said election on the proposed amendment at each place  
12 of voting, shall be superintended, conducted and returned,  
13 and the result thereof ascertained by the same officers and in  
14 the same manner as the election of officers to be voted for at  
15 said election; and all of the provisions of the law relating to  
16 general elections, including all duties to be performed by any  
17 officer or board, as far as applicable and not inconsistent  
18 with anything herein contained, shall apply to the election  
19 held under the provisions of this act, except when it is herein  
20 otherwise provided. The ballots cast on the question of said  
21 proposed amendment shall be counted as other ballots cast at  
22 said election.

Sec. 4. As soon as the result is ascertained the commis-  
2 sioners, or a majority of them, and the canvassers (if there  
3 be any) or a majority of them, at each place of voting, shall  
4 make out and sign two certificates thereof in the following  
5 form or to the following effect:

6 "We, the undersigned, who acted as commissioners (or

7 canvassers, as the case may be), of the election held at\_\_\_\_\_

8 \_\_\_\_\_in the district of\_\_\_\_\_, in the

9 county of\_\_\_\_\_, on the\_\_\_\_\_day of\_\_\_\_\_,

10 one thousand nine hundred and thirty, upon the question of

11 the ratification or rejection of the proposed constitutional

12 amendment to section fifty-one of article six, do hereby cer-

13 tify that the result of said election is as follows:

14 Amending section fifty-one of article six:

15 For ratification of budget amendment\_\_\_\_\_votes.

16 Against ratification of budget amendment\_\_\_\_\_votes.

17 Given under our hands this\_\_\_\_\_day of\_\_\_\_\_.

18 one thousand nine hundred and thirty.”

19 The said two certificates, shall correspond with each other

20 in all respects, and contain the full and true returns of said

21 election at each place of voting on said question. The said

22 commissioners, or any one of them (or said canvassers or one

23 of them, as the case may be), shall within four days, exclud-

24 ing Sundays, after that on which said election is held, deliver

25 one of said certificates to the clerk of the county court of his

26 county, together with the ballots, and the other to the clerk

27 of the circuit court of the county.

28 The said certificates, together with the ballot cast on the

29 question of said proposed amendment, shall be laid before the

30 commissioners of the county court at the court house at the

31 same time the ballots, poll books and the certificates of elec-

32 tion for the members of the legislature are laid before them;

33 and as soon as the result of said election in the county upon

34 the question of such ratification or rejection is ascertained,

35 two certificates of such result shall be made out and signed

36 by said commissioners, as a board of canvassers, in the form

37 or to the following effect:

38 “We, the board of canvassers of the county of\_\_\_\_\_,

39 having carefully and impartially examined the returns of the

40 election held in said county, in each district thereof, on the

41 second day of November, one thousand nine hundred and

42 thirty, do certify that the results of the election in said coun-

43 ty on the question of the ratification or rejection of the pro-

44 posed amendment to section fifty-one of article six is as fol-

45 lows:

46 For ratification of budget amendment\_\_\_\_\_votes.

47 Against ratification of budget amendment\_\_\_\_\_votes.

48 Given under our hands this\_\_\_\_\_day of\_\_\_\_\_,  
49 one thousand nine hundred and thirty.”

50 One of the certificates shall be filed in the office of the  
51 clerk of the county court, and the other forwarded by mail to  
52 the secretary of state who shall file and preserve the same  
53 until the day on which the result of said election in the state  
54 is to be ascertained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held,  
2 or as soon thereafter as practicable, the said certificates shall  
3 be laid before the governor, whose duty it shall be to ascertain  
4 therefrom the result of said election in the state, and declare  
5 the same by proclamation published in one or more news-  
6 papers published at the seat of government. If a majority of  
7 the votes cast at said election upon said question be for the  
8 ratification of said amendment, the proposed amendment so  
9 ratified shall be of force and effect from and after the time  
10 of such ratification, as part of the constitution of the state.

Sec. 6. The governor shall cause the said proposed amend-  
2 ment, with the proper designation for the same as hereinbe-  
3 fore adopted, to be published one time at least three months  
4 before such election, in some newspaper in every county in  
5 which a newspaper is printed, at a price to be agreed upon in  
6 advance, in writing, and the cost of such advertising shall in  
7 the first instance, if found necessary by him, be paid out of  
8 the governor's contingent fund and be afterwards repaid to  
9 such fund by appropriation of the legislature.

## CHAPTER 22

(Senate Bill No. 52—By Mr. Hallanan)

AN ACT amending and re-enacting section seventy-nine of chapter  
twenty-nine of Barnes' West Virginia code of one thousand  
nine hundred and twenty-three, relating to the assessment of  
stock and realty of banks, trust companies and national bank-  
ing associations.

[Passed February 6, 1929; in effect ninety days from passage. Approved by the  
Governor.]

Sec.

79. How and where shares of stock in  
bank, etc., shall be assessed; de-  
ductions; how value of shares  
ascertained; how taxes on paid;  
liability for non-payment; how

real estate of bank, etc., as-  
sessed; how assessment made  
when land on which building  
stands is held by separate corpo-  
ration.

*Be it enacted by the Legislature of West Virginia:*

That section seventy-nine of chapter twenty-nine of Barnes' West Virginia code of one thousand nine hundred and twenty-three, be, and the same is hereby amended and re-enacted to read as follows:

Section 79. That shares of stock in a bank, trust company 2 or national banking association, shall be assessed at their true 3 and actual value, according to the rules prescribed in section 4 twelve of this chapter, to the several holders of such stock in 5 the county, district and town where such bank, company or as- 6 sociation is located, and not elsewhere, whether such holders 7 reside there or not. The holder of shares of stock in any bank, 8 trust company or national banking association may have de- 9 ducted from the value of such stock the amount due another or 10 others as principal debtor as provided by section sixty-seven of 11 this chapter, by filing with the bank a list of the indebtedness 12 which he desires deducted, properly sworn to, prior to the time 13 such bank is required by law to make its return to the assessor, 14 which list of indebtedness shall be filed by the bank with the 15 assessor along with its return. The real and actual value of 16 such shares shall be ascertained according to the best informa- 17 tion which the assessor may be able to obtain, whether from 18 any return made by such bank, company or association to any 19 officer of the state or the United States, from actual sales of the 20 stock, from answers to questions by the assessor, as hereinafter 21 provided, or from other trustworthy sources, the cashier, secre- 22 tary or principal accounting officer of every such bank, com- 23 pany or association shall cause to be kept a correct list of the 24 names and residences of all the shareholders therein, and the 25 number of shares held by each, which list shall be open to the 26 inspection of the assessor of the county, and of the state tax 27 commissioner or assistants; and such cashier, secretary or officer 28 shall answer under oath such questions as the assessor may ask 29 him concerning the matters shown by said list, and concerning 30 the value of said shares, and shall be subject to the same pen- 31 alties for failure to do so, which are imposed by law upon in- 32 dividuals failing to answer questions which the assessor is au- 33 thorized to ask. The taxes so assessed upon the shares of any 34 such bank, company or association shall be paid by the cashier, 35 secretary or proper accounting officer thereof, and in the same

36 manner and at the same time, as other taxes are required to be  
37 paid in such county, district and town. In default of such  
38 payment such cashier, secretary or accounting officer as well as  
39 such bank, company or association shall be liable for such  
40 taxes, and in addition, for a sum equal to ten *per centum*  
41 thereof. Any taxes so paid up on any such share may, with  
42 interest thereon, be recovered from the owners thereof by the  
43 bank, company, association or officer paying them, or may be  
44 deducted from the dividends accruing on such shares. The real  
45 estate of any such bank, company or association shall be as-  
46 sessed as in other cases, and a proportionate share of such as-  
47 sessed value shall be deducted in ascertaining the market value  
48 of the shares. And if the title to the building in which any  
49 such bank, trust company or national banking association does  
50 its business and the land on which such building stands is held  
51 by a separate corporation, in which such bank, company or as-  
52 sociation alone or together with another bank or other banks,  
53 trust company or trust companies, national banking associa-  
54 tion or associations owns stock, and such building and land be  
55 assessed to such separate corporation, a proportionate share of  
56 the assessed value of such real estate of such separate company  
57 shall be deducted in ascertaining the market value of the shares  
58 of such bank, trust company or national banking association.  
59 The return shall be made as of the first day of the assessment  
60 year.

## CHAPTER 23

(Senate Bill No. 90—By Mr. Watkins)

AN ACT to repeal section thirty-seven of chapter fifty of Barnes' West Virginia code of one thousand nine hundred and twenty-three, and sections seventy-six, seventy-seven, seventy-eight, as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-eight-a (one), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-eight-a (two), seventy-eight-a (three), seventy-eight-a (four), seventy-eight-a (five), as amended and re-enacted by chapter thirty-one of the acts

of the legislature of one thousand nine hundred and twenty-three, as amended and re-enacted by chapter thirty-five of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-eight-*a* (six), as amended and re-enacted by chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-three, as amended and re-enacted by chapter thirty-five of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-eight-*a* (seven), as amended and re-enacted by chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-three; seventy-eight-*a* (eight), as amended and re-enacted by chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-three; seventy-nine; seventy-nine-*a* (one); seventy-nine-*a* (two), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-nine-*a* (three); seventy-nine-*a* (four); seventy-nine-*a* (five); seventy-nine-*a* (six); seventy-nine-*a* (seven); seventy-nine-*a* (eight), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-nine-*a* (nine); seventy-nine-*a* (ten); seventy-nine-*a* (eleven); eighty, as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-*a*; eighty-*a* (one); eighty-*a* (two), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five, as amended and re-enacted by chapter nineteen of the acts of the legislature of one thousand nine hundred and twenty-seven; eighty-one; eighty-one-*a* (one), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-*a* (two); eighty-one-*a* (three); eighty-one-*a* (four); eighty-one-*a* (five), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-*a* (six), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-*a* (seven), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five, as amended and re-enacted by chapter twenty-two of the acts of the legislature of one thousand nine hundred

and twenty-seven; eighty-one-a (eight); eighty-one-a (nine); eighty-one-a (ten), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-a (eleven); eighty-one-a (twelve), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-a (thirteen); eighty-one-a (fourteen); eighty-one-a (fifteen), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-a (sixteen); eighty-one-a (seventeen); eighty-one-a (eighteen); eighty-one-a (nineteen); eighty-one-a (twenty); eighty-one-a (twenty-one); eighty-one-b (one); eighty-one-b (two); eighty-one-b (three); eighty-one-b (four); eighty-one-b (five); eighty-one-b (six); eighty-one-b (seven); eighty-one-b (eight); eighty-one-b (nine); eighty-one-b (ten); eighty-one-b (eleven); eighty-one-b (twelve); eighty-one-b (thirteen); eighty-one-b (fourteen); eighty-one-b (fifteen); eighty-one-b (sixteen); eighty-one-b (seventeen); eighty-one-b (eighteen); eighty-one-b (nineteen); eighty-one-b (twenty); eighty-one-b (twenty-one); eighty-one-b (twenty-two); eighty-one-b (twenty-three); eighty-one-b (twenty-four); eighty-one-b (twenty-five); eighty-one-b (twenty-six); eighty-one-b (twenty-seven); eighty-one-b (twenty-nine); eighty-one-b (thirty); eighty-one-b (thirty-one); eighty-one-b (thirty-two); eighty-one-b (thirty-four); eighty-one-b (thirty-five); eighty-one-b (thirty-six); eighty-one-b (thirty-seven); eighty-one-b (thirty-eight); eighty-one-b (thirty-nine); eighty-one-b (forty); eighty-one-c; and eighty-one-d of chapter fifty-four of Barnes' West Virginia code of one thousand nine hundred and twenty-three; and sections one, two, three, four, five, six, seven and eight of chapter fifty-four-c of Barnes' West Virginia code of one thousand nine hundred and twenty-three; and chapter thirty-two of the acts of the legislature of one thousand nine hundred and twenty-three; and chapter thirty of the acts of the legislature of one thousand nine hundred and twenty-five; and chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-five; and chapter thirty-two of the acts of the legislature of one thousand nine hundred and twenty-five; and chapter twenty-one of the acts of the legislature of one thousand nine hundred and twenty-seven: and enacting in lieu

thereof a new chapter to be known as chapter fifty-four-d of Barnes' West Virginia code of one thousand nine hundred and twenty-three, providing for the organization, incorporation and operation of banking institutions, the continuation and operation of the department of banking, and the supervision of banking institutions, building and loan associations, industrial loan companies and other corporations or associations heretofore or hereafter placed under the supervision of the department of banking.

[Passed February 28, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

**Sec.**

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| <ol style="list-style-type: none"> <li>1. Who may use title bank, trust company, etc.; who may transact banking business in this state.</li> <li>2. Application for charter or increase in capital stock; amount of capital stock; value of shares; when capital stock paid in.</li> <li>3. Powers of banking institution; limitation on investment of capital in furniture.</li> <li>4. Powers of trust companies; when may be exercised; penalty for unlawful exercise.</li> <li>5. Branch banks prohibited; suretyship prohibited.</li> <li>6. Trust funds to be kept separate from other assets; banking institution as receiver; trust company as receiver; liquidation of trust company.</li> <li>7. Board of directors; number and qualifications; oath of; how vacancy is created; annual meeting of stockholders; powers and duties of.</li> <li>8. Oath and bond of cashier and other officers.</li> <li>9. List of stockholders; control of other banking institutions prohibited; liability of stockholders to creditors.</li> <li>10. What corporations may not accept deposit of money, etc.; penalty.</li> <li>11. What notaries may not take acknowledgement or protest.</li> <li>12. Department of banking continued; of whom consist; how commissioner and deputy commissioner, etc., appointed; qualifications; terms; salaries; oaths of office; official bonds; office of.</li> <li>13. Banking institutions under supervision of department; copy of charter, etc., to be filed; when certificate may issue or be refused; provisions concerning institutions incorporated in other states; when certificate may issue or be refused; fee for certificate.</li> <li>14. Supervisory powers of commissioner; removal of directors; power as to number of employees and salaries; power over records of institutions; fiscal year; fail-</li> </ol> | <ol style="list-style-type: none"> <li>ure of corporation to comply with requirements of commissioner; examinations by; communications concerning to be read to board of directors; duties of officers of institutions; penalties for failure; fees for examinations; report to the governor.</li> <li>15. Corrections of irregularities; special reports and examinations; doubtful assets; general meeting of stockholders upon notice by commissioner.</li> <li>16. Reports to commissioner; publication of; statement of financial condition to commissioner; failure to make or publish reports; penalty.</li> <li>17. Powers of banking institutions to borrow money, etc.</li> <li>18. Capital stock not to be paid out; how impairment made good.</li> <li>19. Reserve; what to include.</li> <li>20. Definitions of federal terms; membership in federal reserve bank; federal reserve bank examinations, etc.</li> <li>21. Limitation on liability of any one person or corporation to bank; how interest bearing securities to be entered on books; how officers, employees, etc., may borrow from an institution; when shares of capital stock may be taken as security; interest rate and charge for procuring reports.</li> <li>22. Provisions concerning dividends.</li> <li>23. Forwarding of instruments for collection; revocations and countermand; service of notice on employees; refusal to honor checks twelve months old; unlawful certification of checks; liability on forged checks; liability for non-payment through error.</li> <li>24. How deposits of minors paid out; adverse claim to deposit; deposits by trustee for another; joint accounts; not to do business when insolvent; penalty.</li> <li>25. Acts performed on legal holiday or Sunday not void; acts performed on Saturday at noon not void.</li> </ol> |
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| <p>26. Wilful circulation of false statements concerning institutions.</p> <p>27. Penalty for wilfully making false entries and false statements.</p> <p>28. Penalty for accepting compensation for making loan.</p> <p>29. Penalty for embezzlement, etc.</p> <p>30. Procedure when certificate of authority revoked; procedure when certificate of authority of building or loan association revoked; revocation of certificate of authority for failure to make reports, etc.</p> <p>31. Liquidation, reorganization and sales to another banking institution; consolidations; voluntary</p> | <p>liquidation.</p> <p>32. Receivers when capital impaired; powers of; suits by; provisions concerning; proof of and allowance of claim; proceedings against directors and stockholders; ascertainment and payment of creditors; salary of receiver; bond of; appointment of receiver by court of chancery.</p> <p>33. General corporation laws to govern banking institutions.</p> <p>34. Sections of act severable.</p> <p>35. Penalties for violation of act; duty of attorney general as to violations.</p> |
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*Be it enacted by the Legislature of West Virginia:*

That section thirty seven of chapter fifty of Barnes' West Virginia code of one thousand nine hundred and twenty-three; and sections seventy-six, seventy-seven, seventy-eight, as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-eight-a (one), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-eight-a (two); seventy-eight-a (three); seventy-eight-a (four); seventy-eight-a (five), as amended and re-enacted by chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-three, as amended and re-enacted by chapter thirty-five of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-eight-a (six), as amended and re-enacted by chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-three, as amended and re-enacted by chapter thirty-five of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-eight-a (seven), as amended and re-enacted by chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-three; seventy-eight-a (eight), as amended and re-enacted by chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-three; seventy-nine; seventy-nine-a (one); seventy-nine-a (two), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-nine-a (three); seventy-nine-a (four); seventy-nine-a (five); seventy-nine-a (six); seventy-nine-a (seven); seventy-nine-a (eight), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; seventy-nine-a (nine); seventy-nine-a (ten); seventy-nine-a (eleven); eighty, as amended and re-enacted by

chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-a; eighty-a (one); eighty-a (two), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five, as amended and re-enacted by chapter nineteen of the acts of the legislature of one thousand nine hundred and twenty-seven; eighty-one; eighty-one-a (one), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-a (two); eighty-one-a (three); eighty-one-a (four); eighty-one-a (five), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-a (six) as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-a (seven), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five, as amended and re-enacted by chapter twenty-two of the acts of the legislature of one thousand nine hundred and twenty-seven; eighty-one-a (eight); eighty-one-a (nine); eighty-one-a (ten), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-a (eleven); eighty-one-a (twelve), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-a (thirteen); eighty-one-a (fourteen); eighty-one-a (fifteen), as amended and re-enacted by chapter thirty-four of the acts of the legislature of one thousand nine hundred and twenty-five; eighty-one-a (sixteen); eighty-one-a (seventeen); eighty-one-a (eighteen); eighty-one-a (nineteen); eighty-one-a (twenty); eighty-one-a (twenty-one); eighty-one-b (one); eighty-one-b (two); eighty-one-b (three); eighty-one-b (four); eighty-one-b (five); eighty-one-b (six); eighty-one-b (seven); eighty-one-b (eight); eighty-one-b (nine); eighty-one-b (ten); eighty-one-b (eleven); eighty-one-b (twelve); eighty-one-b (thirteen); eighty-one-b (fourteen); eighty-one-b (fifteen); eighty-one-b (sixteen); eighty-one-b (seventeen); eighty-one-b (eighteen); eighty-one-b (nineteen); eighty-one-b (twenty); eighty-one-b (twenty-one); eighty-one-b (twenty-two); eighty-one-b (twenty-three); eighty-one-b (twenty-four); eighty-one-b (twenty-five); eighty-one-b (twenty-six); eighty-one-b (twenty-seven); eighty-one-b (twenty-nine); eighty-one-b (thirty); eighty-one-b (thirty-one); eighty-one-b (thirty-two); eighty-one-b (thirty-four); eighty-one-b (thirty-five); eighty-one-b (thirty-six); eighty-one-b

(thirty-seven); eighty-one-*b* (thirty-eight); eighty-one-*b* (thirty-nine); eighty-one-*b* (forty); eighty-one-*c*; and eighty-one-*d* of chapter fifty-four of Barnes' West Virginia code of one thousand nine hundred and twenty-three; and sections one, two, three, four, five, six, seven, and eight of chapter fifty-four-*c* of Barnes' West Virginia code of one thousand nine hundred and twenty-three; and chapter thirty-two of the acts of the legislature of one thousand nine hundred and twenty-three; and chapter thirty of the acts of the legislature of one thousand nine hundred and twenty-five; and chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-five; and chapter thirty-two of the acts of the legislature of one thousand nine hundred and twenty-five; and chapter twenty-one of the acts of the legislature of one thousand nine hundred and twenty-seven are hereby repealed and chapter fifty-four-*d* is enacted in lieu thereof.

Section 1. The term "Banking institution" shall include  
2 every company chartered under this chapter or heretofore char-  
3 tered and authorized to do business in the state of West Virginia  
4 under the provisions hereof, with authority to engage in the  
5 banking business as defined herein; and every such company  
6 so chartered shall have, as a part of its corporate name or title,  
7 one or more of the following words indicative of the business  
8 which it is authorized to conduct, namely, "Bank," "Banking  
9 company," "Banking association," "Savings bank," "Trust"  
10 or "Trust company."

11 No person, firm, partnership or corporation doing business in  
12 this state, except a banking institution chartered and organized  
13 under the provisions of this chapter or heretofore organized and  
14 except a banking association chartered under acts of the con-  
15 gress of the United States, shall use in connection with such  
16 business, or as a designation or title, the term "Bank,"  
17 "Banker," "Banking," "Banking company," "Banking asso-  
18 ciation," "Savings bank," "Trust" or "Trust company"; or  
19 engage in the banking business as defined herein or hold him-  
20 self, themselves or itself out as engaged in any such business,  
21 or receive deposits, or advertise to receive deposits, either sav-  
22 ings or demand, or sell foreign exchange.

23 Any person, firm, partnership or corporation and/or officer  
24 or director of any corporation violating any of the provisions  
25 of this section shall be deemed guilty of a misdemeanor.

26 All of the provisions hereof shall apply to banking institu-  
27 tions heretofore organized and created under the laws of the  
28 state of West Virginia, or which shall hereafter be so organized.  
29 No banking institution chartered and organized under the laws  
30 of any other jurisdiction, except banking associations chartered  
31 under the laws of the United States of America, shall be per-  
32 mitted to engage or continue in the transaction of business in  
33 the state of West Virginia.

Sec. 2. No charter shall issue in this state for any banking  
2 institution, nor shall there be any increase or reduction in the  
3 capital stock, or amendment of the charter or by-laws thereof.  
4 unless the application or resolution, as the case may be, shall  
5 have been submitted to and approved by the commissioner of  
6 banking and his approval indorsed thereon in writing.

7 No banking institution shall hereafter be incorporated unless  
8 it shall have a *bona fide* subscribed capital stock of at least  
9 twenty-five thousand dollars if the population of the town or  
10 city be not more than three thousand; fifty thousand dollars if  
11 the population of the town or city be not more than six thou-  
12 sand; one hundred thousand dollars if the population of the  
13 town or city be not more than fifty thousand; and one hundred  
14 and fifty thousand dollars if the population of the town or city  
15 be more than fifty thousand, said population to be that shown by  
16 the last available United States census: *Provided*, That no bank-  
17 ing institution engaged in the business of a trust company shall  
18 be incorporated unless it shall have a *bona fide* subscribed cap-  
19 ital stock of at least one hundred thousand dollars.

20 In all cases the actual capital stock and the authorized capital  
21 stock of a banking institution shall be the same.

22 A banking institution shall issue but one class of stock and  
23 the shares shall have a nominal or par value of twenty-five  
24 dollars each, or a multiple thereof, and each share shall be equal  
25 in all respects with any other share.

26 All of the capital stock of every banking institution, chartered  
27 under the laws of this state, shall be paid in before it shall be  
28 authorized to engage in business, except such business as is  
29 incidental and necessarily preliminary to its organization. And  
30 in no case shall a banking institution engage in public business  
31 until it shall have received a certificate of authority or permit  
32 from the commissioner of banking, as provided herein.

33 No banking institution shall sell its shares of stock at less

34 than par, nor for any consideration other than money or pay  
35 any commission or bonus for the sale thereof.

Sec. 3. Any banking institution, organized hereunder shall  
2 have and exercise all of the powers necessary for, or incidental  
3 to, the business of banking, and, without limiting or restricting  
4 such general powers, it shall have the right to buy or discount  
5 promissory notes, bonds, negotiate drafts, bills of exchange and  
6 other evidences of indebtedness, borrow money, receive deposits  
7 on such terms and conditions as its officers may prescribe, buy  
8 and sell exchange, bank notes, bullion or coin, loan money on  
9 personal or other security, rent safety deposit boxes, to receive  
10 on deposit for safe-keeping jewelry, plate, stocks, bonds, and  
11-*a* personal property of whatsoever description. Any banking  
11-*b* institution may accept, for payment at a future date drafts  
11-*e* drawn upon it by its customers, and issue letters of credit, au-  
12 thorizing the holders thereof to draw drafts upon it or its  
13 correspondents, at sight or on time, not exceeding one year.

14 Any banking institution may acquire, own, hold, use and  
15 dispose of, real estate, which shall in no case be carried on its  
16 books at a value greater than the actual cost, subject to the  
17 following limitations and for the following purposes:

18 (*a*) Such as shall be necessary for the convenient transaction  
19 of its business, including with its office or banking room, other  
20 offices or apartments to rent as a source of income, such in-  
21 vestment hereafter made shall not exceed sixty-five per cent of  
22 the amount of its capital stock and surplus:

23 (*b*) Such as shall be mortgaged to it in good faith as security  
24 for debts in its favor;

25 (*c*) Such as shall be conveyed to it in satisfaction of debts  
26 previously contracted in the course of its business dealings;

27 (*d*) Such as it shall purchase at sales under judgments, de-  
28 crees, trust deeds or mortgages in its favor, or shall purchase  
29 at private sale, to secure and effectuate the payment of debts  
30 due it.

31 (*e*) The value at which any real estate is held shall not be  
32 increased by the addition thereto of taxes, insurance, interest,  
33 ordinary repairs, or other charges which do not materially  
34 enhance the value of the property.

35 Any real estate acquired by any banking institution under  
36 clauses (*c*) and (*d*) shall be disposed of by the banking insti-

37 tution within five years; except with the written approval of  
38-40 of the commissioner of banking.

41 No banking institution organized and authorized to transact  
42 business hereunder shall hereafter invest more than twenty  
43 percent of the amount of its capital and surplus in furniture  
44 and fixtures, whether the same be installed in a building owned  
45 by such banking institution, or in quarters leased by it.

Sec. 4. Every banking institution organized under the pro-  
2 visions hereof or heretofore organized and authorized to engage  
3 in the business of a trust company shall have all  
4 the powers, rights and privileges of any banking institution  
5 organized hereunder and in addition thereto shall have the  
6 power, right and privilege.

7-9 To act as trustee, assignee, general or special receiver, guar-  
10 dian, executor, administrator, committee or curator, and to take,  
11 assume, accept and execute, trusts of every description not  
12 inconsistent with the constitution and laws of the United  
13 States of America or of this state; and to receive, hold, manage  
14 and apply any sinking fund on the terms and for the purposes  
15 specified in the instrument creating such fund;

16 To act as registrar or transfer agent for any corporation in  
17 registering and transferring its shares of stock, bonds and other  
18 obligations;

19 To buy, hold, sell and deal in the bonds, or other obligations,  
20 of the United States, any state, county, magisterial district,  
21 school district, or any municipality, in this or any other state,  
22 or foreign government or sub-division thereof, or the stocks or  
23 bonds of any business corporation;

24 To purchase and sell and take charge of and receive, the rents,  
25 issues and profits of any real estate for other persons, firms or  
26 corporations;

27 To act as trustee or agent in any collateral trust, and, in  
28 order to secure the payment of any obligations of any company,  
29 person or association, to receive and hold in trust items of per-  
30 sonal property, including bonds and obligations of states, coun-  
31 ties, districts, or municipal corporations; and notes, bonds and  
32 obligations of private corporations and/or persons; and certifi-  
33 cates for shares of stock of private corporations, with the right  
34 in case of default to sell and dispose of all such personal prop-  
35 erty and/or to collect, settle and adjust all obligations for the  
36 payment of money, or to sell and dispose of such obligations,

37 and at any such sale to purchase the property for the benefit  
38 of all or any of the holders of the obligations to secure the pay-  
39 ment of which, such items of property or securities were pledged  
40 and delivered. Any such sale may be made without any pro-  
41 ceedings in any court, and at such time and upon such terms  
42 as may be specified in the instrument or instruments creating  
43 the trust, or, in the absence of any specification of terms, at  
44 such time and upon such terms as the trustee shall deem reason-  
45 able.

46 To do and perform any act or thing requisite or necessary in,  
47 or incidental to, the exercise of the general powers herein set  
48 forth.

49 All national banks which have been, or hereafter may be,  
50 permitted by law to act as trustee and in other fiduciary capac-  
51 ities, shall have all the rights, powers, privileges and immunities  
52 conferred upon trust companies hereunder, *provided*, they have  
52-a a capital of at least one hundred thousand dollars and comply  
52-b with the requirements hereof relating to trust companies.

53 No banking institution shall exercise any trust powers until  
54 it shall have filed with the secretary of state a duly authenti-  
55 cated certificate, showing the unimpaired capital of such com-  
56 pany to be at least one hundred thousand dollars, and such duly  
57 authenticated certificate shall be filed with the secretary of  
58 state and copy thereof with the commissioner of banking in the  
59 month of January of each year thereafter. If any banking  
60 institution shall exercise, or attempt to exercise, any such pow-  
61 ers or rights without having complied with the requirements of  
62 this section as to the filing of such certificate, it shall be guilty  
63 of a misdemeanor, and, upon conviction thereof, may be fined  
64 not more than five hundred dollars; and in every such case,  
65 whether or not there shall have been a prosecution or convic-  
66 tion of the company so offending, the commissioner of banking,  
67 being satisfied of the facts, may publish a notice in two issues  
68 of a newspaper of general circulation in the county in which  
69 such institution is located, of the fact that it has failed to com-  
70 ply with the requirements of this section and is therefore not  
71 entitled to exercise trust powers.

Sec. 5. No banking institution chartered and authorized to  
2 engage in business hereunder shall hereafter install any  
3 branch bank, or engage in business at any place other than at  
4 its principal office in the state of West Virginia; or engage in

5 any business other than as authorized herein.

6 No banking institution shall become or be accepted as surety  
7 on any bond or undertaking required by the laws or by the  
8 courts of this state, or any other state, or shall become surety  
9 or guarantor of any person, firm or corporation for the dis-  
10 charge of any duty in any position or the performance of any  
11 contract or undertaking. No banking institution shall pledge,  
12 hypothecate or deliver any of its assets of any description what-  
13 soever to any person, firm or corporation to indemnify him, or  
14 them, as surety for such banking institution or as surety for  
15 any other person *provided*, that this shall not prevent a bank  
16 or trust company depositing securities to guarantee deposits of  
17 the United States, State of West Virginia, county or municipal  
18 corporation.

19 The foregoing shall not prevent the hypothecation of the  
20 assets of any banking institution to secure the repayment of  
21 money borrowed from another banking institution.

Sec. 6. Every banking institution authorized to engage in  
2 the business of a trust company, shall keep all trust funds and  
3 investments separate and distinct from the assets owned by the  
4 corporation, and shall keep a separate set of books and records  
5 showing in proper detail all transactions so engaged in; and all  
6 investments made by such company as fiduciary shall be so  
7 designated that the trust to which such investments shall apper-  
8 tain or belong shall be clearly and distinctly shown on the books  
9 of the corporation; and such funds shall be held for the use  
10 of the trust designated and for the beneficiaries thereof, and  
11 shall not be liable for any other obligations of the corporation.

12 Whenever any court, or the clerk thereof, shall appoint any  
13 banking institution, exercising trust powers, as trustee, receiver,  
14 assignee, guardian, executor, administrator, special commis-  
15 sioner, curator or committee, to perform any duty or execute  
16 any trust, the president, vice president, secretary, treasurer or  
17 trust officer of such institution shall take the oath and make  
18 the affirmation required by laws of any such fiduciary, before  
19 the clerk of such court in person, or before any other officer  
20 authorized to administer oaths.

21 Whenever any banking institution authorized to exercise  
22 trust powers, and having complied with the requirements here-  
23 of, shall be appointed trustee, assignee, receiver, guardian, ex-

24 ector, administrator, special commissioner, curator or com-  
25 mittee, or shall be directed by the order or decree of any court  
26 to execute any trust whatsoever, the capital and other assets of  
27 the fiduciary corporation shall constitute the security required  
28 by law for the faithful performance of its duties and shall be  
29 absolutely liable in case of any default whatsoever; *Provided*,  
30 That where the liability under any such appointment as trustee,  
31 assignee, receiver, guardian, executor, administrator, special  
32 commissioner, curator or committee, or, in the execution of any  
33 trust by order or decree of any court, shall be equal to, or shall  
34 exceed the capital and surplus of such fiduciary corporation,  
35 the court making such appointment, order or decree may re-  
36 quire, and the fiduciary shall give additional security.

37 Whenever a banking institution engaged in business in this  
38 state, authorized to exercise trust powers, is for any reason  
39 placed in liquidation, it shall be the duty of the liquidating  
40 agent to immediately prepare a complete and comprehensive  
41 statement of all business of a fiduciary nature being handled by  
42 the institution and lodge the same, with all necessary legal  
43 prayers and petitions, with the circuit court of the county in  
44 which the closed institution was located. Whenever the court  
45 designates and appoints a successor to act in said fiduciary  
46 capacity, the liquidating agent shall turn over and deliver to  
47 said successor all monies, investments and records in accordance  
48 with said court order. In any such proceedings, the costs, in-  
49 cluding a reasonable attorney fee, approved by the court, shall  
50 be charged proportionately to the trusts involved.

Sec. 7. For every banking institution subject to the provi-  
2 sions hereof there shall be a board of at least five directors, who  
3 shall meet at least once each month and who shall have power  
4 to do, or cause to be done, all things that are proper to be done  
5 by the banking institution; and a majority of whom shall at all  
6 times be residents of this state. Every such director shall own  
7 in his own right shares of the aggregate par value of not less  
8 than five hundred dollars, of the capital stock of the banking  
9 institution of which he is a director, and, before entering on the  
10 discharge of his duties as such director, he shall take an oath  
11 that he will, so far as the duty devolves upon him, diligently  
12 and honestly administer the affairs of the banking institution,  
13 and that he will not knowingly or willingly permit to be vio-

14 lated any of the provisions of the laws of this state relative to  
15 banking and banking institutions, and that the stock standing  
16 in his name upon the books of the banking institution is not  
17 hypothecated or pledged in any way as security for loans ob-  
18 tained from or debts owing to the banking institution of which  
19 he is a director, and that the number of shares necessary to  
20 qualify a stockholder to be a director are not now, and shall not  
21 at any time while he serves as a director be pledged or hypothe-  
22 cated in any manner for any debt or obligation of the director,  
23 or any other person; which oath subscribed by himself and cer-  
24 tified by the officer before whom it was taken shall be filed and  
25 preserved in the office of the commissioner of banking. Should  
26 a director at any time after qualifying as such sell or dispose  
27 of, or in any manner hypothecate or pledge as security for a  
28 debt or obligation, such qualifying shares, or any number  
29 thereof, necessary for his qualification, or fail within sixty  
30 days after notice of election to subscribe to the oath herein pro-  
31 vided for, thereupon his office as director shall immediately be-  
32 come vacant, and the remaining directors shall declare his office  
33 vacant and proceed to fill such vacancy forthwith.

34 Unless otherwise provided by the by-laws of a banking in-  
35 stitution, the annual meeting of stockholders for the election  
36 of directors shall be held on the fourth Tuesday of January in  
37 each year. At such meeting it shall be the duty of the cashier or  
38 other executive officer of such banking institution to prepare  
39 and submit to the stockholders a clear and concise statement of  
40 the financial condition of the corporation as at the close of  
41 business on the last day of the month next preceding.

42 The stockholders of each banking institution organized and  
43 authorized to transact business hereunder shall meet annually  
44 for the election of directors and transaction of other business.  
45 The stockholders shall at such annual meeting appoint an exam-  
46 ining committee whose duty it shall be to examine the condition  
47 of the bank at least once every six months. The examining  
48 committee shall report to the board of directors giving in detail  
49 all items included in the assets of the bank which they have  
50 reason to believe are not of the value at which they appear on  
51 the books and records of the bank, and giving the value of each  
52 of such items according to their judgment. Should such com-  
53 mittee deem it advisable, it may, with the consent and approval  
54 of the board of directors, employ competent accountants or

55 auditors to make such examination or make same in conjunction  
56 with the regular examination of the banking department. The  
57 examiners may require the presence of the examining com-  
58 mittee during their examination. The board shall cause such re-  
59 port to be recorded in the minute books of the bank, and a duly  
60 authenticated copy thereof transmitted to the commissioner of  
61 banking.

Sec. 8. The board of directors shall require the cashier and  
2 other officers of a banking institution to take an oath and re-  
3 quire all employees to execute and file corporate surety bonds  
4 for the faithful discharge of their respective duties; the pen-  
5 alty of such bonds to be commensurate with the responsibility  
6 of the position and the premium thereon to be paid by the  
7 bank. Either the original bond or a copy thereof shall be filed  
8 and preserved in the office of the bank.

Sec. 9. The president, cashier, or other executive officer of  
2 every banking institution shall cause to be kept at all times a  
3 full and correct list of the names and post-office addresses of  
4 all of the stockholders of the banking institution, and the num-  
5 ber of shares owned by each, in the office where its business is  
6 transacted. Such list shall be open to inspection by the stock-  
7 holders and/ or creditors of the banking institution, and the  
8 officers authorized by law to assess taxes, during business hours  
9 of each day, except Sundays and holidays. A copy of such  
10 list shall be made on the first Monday in July of each year  
11 and verified by the oath of the president, cashier, or other  
12 executive officer, and immediately transmitted by mail to the  
13 commissioner of banking, at his office.

14 It shall be unlawful for any firm, association or corporation  
15 to purchase and hold stock in any banking institution organized  
16 or authorized to transact business hereunder for the purpose  
17 of selling, negotiating or trading participation in the owner-  
18 ship thereof either for the purpose of perfecting control of  
19 one or more such banking institutions or for the purpose of  
20 inducing other persons, firms or corporations or the general  
21 public to become participating owners therein. Nothing herein  
22 shall prevent the ownership of stock in any such banking insti-  
23 tution by any corporation for investment purposes.

24 Each stockholder of any banking institution organized under  
25 the laws of this state, in addition to the liability imposed upon  
26 him as a stockholder of a corporation under the provisions of the

26-a general corporation laws shall be liable to the creditors of the  
27 banking institution, on obligations accruing while he is a share-  
28 holder, to an amount equal to the par value of the shares of  
29 stock held by him.

Sec. 10. No corporation chartered under the laws of this  
2 state, or of any other state, territory or sovereignty, except  
3 banking associations chartered under the laws of the United  
4 States of America, and banking institutions chartered under  
5 the laws of this state, as defined herein, and no person, partner-  
6 ship or association of persons as a trust, or other organization,  
7 shall engage in the business of banking in the state of West  
8 Virginia, or shall receive or accept deposits of money, or borrow  
9 money by receiving and giving credits for deposits, or by  
10 issuing certificates of deposit, or by means of any other plan,  
11 pretext, scheme, shift or device.

12 Any corporation or individual who violates any of the pro-  
13 visions of this section shall be guilty of a misdemeanor, and,  
14 upon conviction, shall be fined not more than five thousand  
15 dollars, and, in addition to such penalty, every corporation  
16 so offending shall forfeit its corporate franchise, and every  
17 individual so offending shall be subject to a further penalty by  
18 confinement in jail for not more than one year.

19 Nothing contained in this section shall affect the rights,  
20 privileges, objects or purposes delegated to other corporations  
21 by the general corporation law or other acts of the West Vir-  
22 ginia legislature.

Sec. 11. It shall be lawful for any notary public who is a  
2 stockholder, director, officer or employee of a banking institu-  
3 tion or other corporation to take the acknowledgment of any  
4 party to any written instrument executed to or by such cor-  
5 poration, or to administer an oath to any other stockholder,  
6 director, officer, employee or agent of such corporation, or to  
7 protest for non-acceptance or non-payment bills of exchange,  
8 drafts, checks, notes and other negotiable instruments which  
9 may be owned or held for collection by such corporation; pro-  
10 vided it shall be unlawful for any notary public to take the  
11 acknowledgment of an instrument by or to a banking institu-  
12 tion or other corporation of which he is a stockholder, direc-  
13 tor, officer, or employee, where such notary is a party to such  
14 instrument, either individually or as a representative of such  
15 corporation, or to protest any negotiable instrument owned or

16 held for collection by such corporation, where such notary is  
17 individually a party to such instrument.

Sec. 12. For the administration of the laws relating to bank-  
2 ing institutions, building and loan associations and other cor-  
3 porations which have been or may be placed under such super-  
4 vision, there is hereby continued a department of banking. The  
5 department shall consist of a commissioner of banking, a deputy  
6 commissioner of banking and such number of bank examiners,  
7 assistant bank examiners and office assistants as may be neces-  
8 sary to properly transact the business of the department. The  
9 banking commissioner in office when this act becomes effective  
10 shall hold office until the expiration of the term for which he  
11 was appointed, unless sooner removed as provided by law. The  
12 commissioner of banking shall be appointed by the governor  
13 by and with the advice and consent of the senate. The deputy  
14 commissioner of banking and all bank examiners and assistant  
15 bank examiners shall be appointed by and be under the  
16 supervision of the commissioner of banking. No per-  
17 son shall be appointed commissioner of banking who is  
18 not a citizen of the state and who has not had at least  
19 five years experience as a cashier or an active executive officer of  
20 a bank in the state. No person shall be appointed deputy commis-  
21 sioner, examiner or assistant examiner who is not a  
21-a citizen of this state and has not had at least two  
22 years regular employment in some bank in this state or a  
23 similar experience with the banking department of this or  
24 some other state or the federal government.

25 Before taking the oath of office said commissioner of bank-  
26 ing, deputy commissioner, examiner or assistant examiner shall  
27 sever any or all connection, either direct or indirect, with any or  
28 all institutions subject to supervision of the department of  
29 banking.

30 The commissioner of banking shall be appointed for a term of  
31 four years and/or until his successor is appointed and qualifies.

32 The deputy commissioner, bank examiners and assistants shall  
33 not be appointed for fixed and definite terms.

34 The commissioner of banking shall receive a salary of  
35 six thousand dollars a year; the deputy commissioner a salary  
36 of not to exceed thirty-six hundred dollars a year; and  
37 each bank examiner and assistant bank examiner a salary not  
38 to exceed three thousand six hundred dollars a year; in addi-

39 tion to such salary, all employees shall be reimbursed for all  
40 moneys paid out by them as necessary expenses in the per-  
41 formance of their official duties. The salary shall be payable in  
42 equal monthly installments.

43 The commissioner and deputy commissioner of banking and  
44 each bank examiner and assistant bank examiner, before enter-  
45 ing upon the discharge of his duties, shall take and subscribe  
46 to an oath to support the constitution of the United States, the  
47 constitution of the state of West Virginia, and to faithfully dis-  
48 charge the duties of his office.

49 The commissioner of banking shall enter into a bond in the  
50 penalty of twenty-five thousand dollars and the deputy com-  
51 missioner and each bank examiner and assistant bank examiner  
52 shall enter into a bond in the penalty of five thousand dollars,  
53 with an indemnity company as surety, conditioned for the  
54 faithful performance of his official duties. Such bonds shall  
55 be filed and recorded in the office of the secretary of state. The  
56 premiums on such bonds shall be paid out of the state treasury.

57 The department of banking shall maintain an office at the  
58 state capital, in which shall be kept a complete record of all of  
59 its transactions and of the financial condition of all of the bank-  
60 ing institutions, building and loan associations, and other cor-  
61 porations subject to the supervision of the department, and  
62 such records of the activities of other corporations as the com-  
63 missioner of banking may deem important. The commissioner  
64 of banking shall have and exercise a reasonable discretion with  
65 respect to the time, manner and the extent to which the records  
66 in his office and the information contained in such records are  
67 made public.

Sec. 13. Every banking institution incorporated under the  
2 laws of this state, and every building and loan association, en-  
3 gaged in the transaction of business in this state, regardless  
4 of where incorporated, and other corporations which have been  
5 or may be placed under such supervision, shall be subject to the  
6 provisions hereof and subject to the supervision, examination

8 Any banking institution, building and loan association, or  
9 other corporation which has been or may be hereafter placed  
10 under the supervision of the department of banking and in-  
11 corporated under the laws of this state, before engaging in the  
12 transaction of business in this state shall file with the depart-  
13 ment of banking a copy of its charter, a copy of its by-laws and

14 a statement as to the amount of capital that has been subscribed  
15 and actually paid in, attested by its president or vice president  
16 and its cashier or secretary, as the case may be. The commis-  
17 sioner of banking shall examine the same and, if the by-laws  
18 provide safe, just and equitable rules and methods for the  
19 management of the business of the corporation and the corpora-  
20 tion has complied in all respects with the provisions hereof, he  
21 shall issue to such corporation a certificate, authorizing it to en-  
22 gage in business, which certificate shall be preserved and dis-  
23 played in the place of business or in the office of the corporation.  
24 If in the judgment of the commissioner of banking, the by-laws  
25 of any such corporation do not comply with the provisions hereof  
26 and/or the method for transacting business is impractical, un-  
27 just, inequitable, oppressive and does not adequately protect the  
28 creditors or the share holders thereof, he shall refuse to issue  
29 such certificate authorizing the corporation to engage in business.  
30 Without such unrevoked certificate of authority, it shall be un-  
31 lawful for any such corporation to engage or continue in busi-  
32 ness in the state of West Virginia, *provided*, that before secur-  
33 ing such certificate of authority, any such corporation may law-  
34 fully secure its charter, adopt by-laws, elect its directors and  
35 officers and perfect its organization.

36 Any corporation which has been or may hereafter be  
37 placed under the supervision of the department of bank-  
38 ing, incorporated under the laws of any other jurisdiction  
39 than that of West Virginia and, having domesticated through  
40 the office of the secretary of state of West Virginia, and  
41 seeking to engage in the transaction of business in this  
42 state, shall file with the department of banking a copy  
43 of its charter, a copy of its by-laws and a statement of its  
44 financial condition attested by its president or vice president  
45 and its secretary or treasurer, as the case may be, and a copy  
46 of the laws of the jurisdiction under which it is organized.  
47 The commissioner of banking shall examine the same and, if  
48 they provide safe, just and equitable rules and methods for the  
49 management of the business of the corporation and comply  
50 in all respects with the requirements hereof, he shall issue to  
51 such foreign corporation a certificate authorizing it to transact  
52 business in this state subject to the provisions and restrictions  
53 provided for like corporations organized under the laws of this  
54 state, which certificate shall permit such foreign corporation

55 to continue in business until the thirtieth day of the follow-  
56 ing June. Thereafter, and annually, a new certificate of author-  
57 ity shall be secured by all such foreign corporations desiring to  
58 continue in business, upon the filing with the department of  
59 banking copies of any amendments to its charter or by-laws  
60 or to the laws under the jurisdiction of which it was organized  
61 and a certified statement of its present financial condition. If,  
62 in the judgment of the commissioner of banking, the charter  
63 and by-laws of any such foreign corporation do not comply  
64 with the provisions hereof and/or the method for transacting  
65 business is impractical, unjust, inequitable or oppressive, and  
66 do not adequately protect any class of creditors or shareholders,  
67 he shall refuse to issue such certificate authorizing it to engage  
68 in or continue in business in this state. Without such unre-  
69 voked certificate of authority it shall be unlawful for any such  
70 foreign corporation to engage in or continue in business in  
71 the state of West Virginia.

72 It shall be the duty of the commissioner of banking to col-  
73 lect from each such foreign corporations a fee of one hundred  
74 dollars for each certificate of authority issued hereunder, ex-  
75 cept as otherwise provided by statute.

Sec. 14. The commissioner of banking shall have and exer-  
2 cise supervisory powers over every banking institution, and  
3 other corporation which has been or may be placed under such  
4 supervision, engaged in business in this state, except banking  
5 associations organized under the laws of the United States, and  
6 shall have authority to require and compel all such corporations  
7 to keep and observe all of the laws with respect to their organ-  
8 ization and business activities, to follow approved business  
9 practices, and to safely and conservatively manage and invest  
10-11 the funds of, or those entrusted to, the corporation.

12 Directors who are found upon the occasion of an examina-  
13 tion by the banking department, or upon subsequent investi-  
14 gation, to be disqualified shall be removed from office by the  
15 other directors upon written notice of such disqualification  
16 filed with the board by the commissioner.

17 The commissioner of banking shall keep informed of the  
18 number of persons employed by each such corporation under  
19 his supervision, the services required and the salaries paid,  
20 and shall not permit any abuse of their powers by the officers  
21 of any such corporation by paying unreasonable salaries, or

22 such as to impair the solvency of the corporation. He shall  
23 procure and keep information on file in his office showing the  
24 holders of the shares of stock of each banking institution under  
25 his supervision. He shall require every corporation subject  
26 to his supervision to properly keep all of its books, records  
27 and accounts in an intelligent and approved manner, and of  
28 such information as he may require. He shall require all such  
29 books, records and accounts to be properly kept, posted and  
30 balanced, and complete trial balances made therefrom at regu-  
31 lar intervals and all entries in all books of banking institutions  
32 and in pass books of depositors shall be made in ink.

33 The fiscal year of each banking institution organized and  
34 authorized to transact business in the state of West Virginia  
35 shall end on the thirtieth day of June in each year, but each  
36 banking institution shall close its books of account at least  
37 twice each year, on June thirtieth and December thirty-first.

38 If a corporation, subject to the supervision of the commis-  
39 sioner of banking, shall refuse, after notice, to comply with any  
40 reasonable requirement of said officer, he shall have the right to  
41 revoke the certificate of authority of such corporation to transact  
42 business in the state of West Virginia, or, at his election, to  
43 apply to any court having jurisdiction for proper process to  
44 compel obedience to any reasonable order or requirement.

45 The commissioner of banking shall make, or cause to be  
46 made, at least twice a year, a thorough examination of all of  
47 the books, accounts, records and papers of every banking in-  
48 stitution, building and loan association and industrial loan  
49 company, except national banking associations organized under  
50 the acts of congress, engaged in business in the state of West  
51 Virginia. He shall carefully examine all of the assets of the  
52 corporation, including its notes, drafts, checks, mortgages,  
53 securities deposited to assure the payment of debts unto it,  
54 and all papers, documents and records showing, or in any  
55 manner relating to, its business affairs, and shall ascertain  
56 the full amount and the nature of all of its liabilities. A full  
57 report of every such examination shall be made and filed and  
58 preserved in the office of the department of banking.

59 For the purpose of facilitating such examination, every cor-  
60 poration subject to supervision shall preserve and keep all of  
61 its records of final entry, including cards used under the card  
62 system, and deposit tickets for deposits made, for a period of

63 at least six years from the date of the last entry on such books  
64 and the date of the making of such deposit tickets, and card  
65 records.

66 Every official communication from the office of the depart-  
67 ment of banking to any corporation or any officer of such  
68 corporation subject to the supervision of said department, re-  
69 lating to an examination or an investigation of the affairs of  
70 such institution conducted by the department of banking or  
71 containing suggestions or recommendations as to the manner  
72 of conducting the business of the corporation, shall be sub-  
73 mitted and read to the board of directors at the next meeting  
74 after the receipt thereof, and the president, or other executive  
75 officer, of the corporation shall report in writing forthwith to  
76 the commissioner of banking the fact of the presentation and  
77 reading of such communication and report any action taken  
78 thereon.

79 The officers of every corporation subject to examination  
80 hereunder shall, upon the request of the examining officer, fur-  
81 nish and give full access to all of the books, papers, notes, bills  
82 and other evidences of debts due to the corporation, and pro-  
83 duce and furnish all documents, writings and papers relating  
84 to the business of the corporation, and disclose fully and ac-  
85 curately, and in detail, all of the debts and liabilities of the  
86 corporation; and shall furnish such clerical aid and assistance  
87 as may be required. The examining officer shall have the right  
88 to administer oaths and to examine under oath each officer,  
89 director, employee or other persons connected with the cor-  
90 poration concerning any matter and thing pertaining to the  
91 business and the condition of the corporation.

92 Any officer, director or employee of such corporation who  
93 fails or refuses to furnish the examining officer with any  
94 papers or information required, or to discharge any duty  
95 herein required of such person, shall be guilty of a mis-  
96 demeanor, and the commissioner of banking may report the  
97 fact of such offense to the prosecuting attorney of the county  
98 in which the office of the corporation is located; and take  
99 such other steps as may be necessary to compel any such offend-  
100 ing officer to comply with the requirements of this section.

101 For making an examination of any corporation under his  
102 supervision the commissioner of banking shall charge and col-

103 lect from such corporation, and pay into the state treasury  
104 fees and expenses as follows:

105 If the examination be made in the state of West Virginia,  
106 of any corporation, for the first twenty-five thousand dollars  
107 of the assets as shown by the books of the corporation on the  
108 date of the examination, forty dollars; and three cents for  
109 each additional one thousand dollars of such assets.

110 If any examination be made at a place outside of this state,  
111 the fees shall be at the rate above provided, except that there  
112 shall be an additional charge for each examination of twice  
113 the amount of the railroad fare from the city of Charleston  
114 to the place where the examination is made, together with all  
115 other actual and necessary expenses in connection therewith.

116 On or before the first day of December each year said com-  
117 missioner of banking shall make out and submit to the governor  
118 a careful and complete report of all work done by his depart-  
119 ment, showing the total resources and liabilities of all the  
120 banks subject to his supervision, the increase or decrease for  
121 the year in the aggregate of such resources and liabilities,  
122 carefully noting any failures that may have occurred, stating  
123 the cause thereof, and making such remarks, suggestions and  
124 recommendations as he may deem pertinent. Which report  
125 the governor shall bind with his message and documents and  
126 lay before the legislature. Such report shall be verified by  
127 the affidavit of said commissioner of banking, who shall swear  
128 that, in making the examination of each of the banks and other  
129 institutions provided for herein he, or some person in his de-  
130 partment authorized under the provisions hereof to so examine,  
131 has personally and carefully inspected the books, papers and  
132 affairs of said banks and other institutions, and that he has  
133 not, and, so far as he knows or is informed, no person in his  
134 department has, in any case received or agreed to receive  
135 directly or indirectly any reward, gift, or promise thereof,  
136 from any bank officer or individual, other than that specified  
137 herein.

Sec. 15. If it shall be disclosed by any examination of a  
2 corporation subject to supervision by the department of bank-  
3 ing or ascertained in any other manner, that the laws of the  
4 state with respect to such corporation are not being fully ob-  
5 served, or that any irregularities are being practiced, it shall  
6 be the duty of the commissioner of banking to promptly call

7 the same to the attention of the officers and directors of the  
8 corporation offending, and to demand that the same be promptly  
9 corrected; and he may require a sworn statement from the  
10 officers of such corporation covering the matter of all failures  
11 to observe the law and of all irregularities, to be mailed to him  
12 at the department of banking as often as he may deem neces-  
13 sary until he is satisfied that the laws are being observed and  
14 that the irregularities complained of have been corrected. Such  
15 reports shall not be made public.

16 The commissioner of banking shall also have the authority to  
17 call for special reports and to make special examinations of any  
18 corporation under the supervision of his department which he  
19 may have reason to believe is not being properly conducted, the  
20 cost and expense of such examinations to be paid by the cor-  
21 poration at the same rate as for regular examinations.

22 If any examination discloses any assets, the validity of which,  
23 in the judgment of the commissioner of banking, is questionable,  
24 or discloses past due obligations to the corporation, the com-  
25 missioner of banking may require the assets of doubtful validity  
26 to be at once converted into money or charged off of the books  
27 of the corporation at the expiration of three months from the  
28 date of such order; and to require legal proceedings to be at  
29 once instituted for the collection of any overdue obligations to  
30 the corporation.

31 Upon the written notice of the commissioner of banking, the  
32 directors of any banking institution organized hereunder, shall  
33 call a general meeting of the stockholders thereof by giving such  
34 notice as is required by statute or the by-laws of the banking  
35 institution. The expense of said meeting and notice thereof  
36 shall be borne by the banking institution whose stockholders  
37 are so required to convene.

Sec. 16. Every banking institution organized and author-  
2 ized to transact business hereunder shall make at least four  
3 reports each year to the commissioner of banking. Such reports  
4 shall be called for as nearly as conveniently may be on the  
5 dates on which the comptroller of the currency shall call for  
6 reports by national banking associations and of such form and  
7 containing such details as shall be prescribed by the commis-  
8 sioner of banking; which reports shall be verified by the oath  
9 of the president, active vice president or cashier and attested by  
10 the signatures of at least three directors of the banking institu-

11 tion. Each report shall show in detail, under appropriate heads,  
12 the resources and liabilities of the banking institutions at the  
13 close of business on the date specified by the commissioner of  
14 banking, and shall be transmitted to the office of the department  
15 of banking within five days from the receipt of the request for  
15-a the same.

16 Such report in the same form in which it is made to the com-  
17 missioner of banking shall be published in a newspaper printed  
18 in the place where the banking institution is located; or if no  
19 newspaper is printed in such location, it shall be published in  
20 a newspaper printed in the same county and of general cir-  
21 culation in the community where the banking institution is  
22 located. Such report and the publication thereof shall be at  
23 the expense of the banking institution, and it shall furnish to  
24 the commissioner of banking such proof of the publication as  
25 may be required by him.

26 Every other corporation under the supervision of the depart-  
27 ment of banking engaged in business in this state shall, at least  
28 twice a year, at the request of the commissioner of banking, and  
29 as of a date named by him, furnish, within fifteen days after  
30 such request, a statement, verified by its president or secretary,  
31 and approved by three of its directors, in such form as may be  
32 prescribed by the commissioner of banking, showing in detail  
33 the actual financial condition and the amount of the assets and  
34 liabilities of such corporation, and shall furnish such other  
35 information as to its business and affairs as the commissioner  
36 of banking may require, which reports, in the same form in  
37 which they are transmitted to the commissioner of banking,  
38 shall be printed and circulated among all of the stockholders  
39 of the corporation or published in a newspaper printed and of  
40 general circulation in the county in which the corporation is  
41 located.

42 Every corporation subject to supervision hereunder failing  
43 to make and transmit to the banking department any of the  
44 reports required by this section, in the form prescribed by the  
45 commissioner of banking therefor, or failing to publish or dis-  
46 tribute the reports, as required by law, shall forthwith be notified  
47 by the commissioner of banking and, if such failure continues  
48 for ten days after receipt of such notice, such delinquent shall  
49 be subject to a penalty of one hundred dollars for each day  
50 thereafter that such failure continues, such penalty to be re-

51 covered by the commissioner of banking and paid in to the  
52 state treasury.

Sec. 17. Any banking institution organized and authorized  
2 to transact business hereunder may borrow money, rediscount  
3 any of its notes, or borrow bonds for the use of the bank, in  
4 order to maintain its legal required reserve, or meet any emer-  
5 gency that may arise. The books and accounts of such  
6 banking institution shall at all times show the amount of  
7-8 such borrowed money or rediscounts. No officer, director  
9 or employee of any such banking institution shall issue  
10 the note of such banking institution for borrowed money, or re-  
11 discount any note or pledge any of the assets of such banking  
12 institution, except when authorized by resolution of the board  
13 of directors of such banking institution. *Provided*, that it shall  
14 be unlawful for any such banking institution to issue its certifi-  
15 cate of deposit for the purpose of borrowing money. It shall be  
16 unlawful for such banking institution to pledge or hypothecate  
17 more than two dollars of the book value of any of its  
18 assets for each one dollar of borrowed money. An accurate  
19 record of all securities and an exact copy of all notes withdrawn  
20 from the files of such banking institution to be pledged as col-  
21 lateral for borrowed money or other purposes, must be kept in  
22 the bank's files at all times.

Sec. 18. The officers and directors of a banking institution  
2 organized and authorized to transact business hereunder shall  
3 not pay out, disburse or withdraw, or permit to be paid out,  
4 disbursed or withdrawn, in any manner whatever, any part of  
5 the capital of the corporation, except in case of merger or con-  
6 solidation, as hereinafter provided. Whenever, from any cause,  
7 the capital of such banking institution shall become impaired, it  
7-a shall be the duty of the officers and directors of such institu-  
8 tion, forthwith, to cause any such impairment to be made good,  
9 by assessing the amount of the deficiency *pro rata* on the shares  
10 of the capital stock outstanding, which assessments shall be paid  
11 within thirty days after notice thereof. If any stockholder  
12 shall neglect or refuse to pay the assessment on his shares after  
13 thirty days' notice, it shall be the duty of the board of directors  
14 to cause a sufficient number of his shares of stock to be sold for  
15 cash, at public outcry at the banking room of the banking insti-  
16 tution, after ten days' notice of such sale posted at the office of  
17 the banking institution or at the front door of the court house

18 and published by two insertions in some newspaper published  
19 or of general circulation in the town in which the banking  
20 institution is located, to pay the amount of such assessment and  
21 expenses of making the sale. Any surplus from the sale of any  
22 share shall be paid to the defaulting stockholder and should said  
23 stock not sell for a sum sufficient to pay such assessment and  
24 expense of making said sale, the banking institution may recover  
25 said deficiency by action at law from the stockholder whose  
26 stock was so sold. A sale of stock as provided in this section,  
27 shall effect an absolute cancellation of the outstanding certifi-  
28 cate, or certificates, evidencing the stock so sold, and shall make  
29 said certificate null and void, and a new certificate shall be  
30 issued by the bank to the purchaser of such stock.

Sec. 19. Each banking institution operating under the pro-  
2 visions hereof shall at all times maintain on hand as a reserve,  
3 in lawful money of the United States of America, an amount  
4 equal to at least ten per cent of the aggregate of all of its de-  
5 posits which are subject to withdrawal on demand and five  
6 per cent of all of its time deposits; and whenever such reserve  
7 shall fall below said per cent of such deposits, it shall not in-  
8 crease its liabilities by making any new loan until its reserve  
9 fund shall be restored. For the purpose of computing reserve,  
10 all deposits requiring notice of thirty days or more for with-  
11 drawal and time certificates of deposit, trust funds and Christ-  
12 mas savings, shall be deemed time deposits, and all checking ac-  
13 counts, certified checks, cashier's checks, demand certificates of  
14 deposit and balances due other banks shall be deemed demand  
15 deposits. *Provided*, that, in lieu of lawful money on hand,  
16 four-fifths of such reserve may consist of balances payable on  
17 demand from any national or state bank doing business in this  
18 state; or any solvent banking institutions in other states. *Pro-*  
19 *vided, further*, that a compliance on the part of any such bank-  
20 ing institution which is a member of the federal reserve system  
21 with the reserve requirements of the federal reserve act, shall  
22 be held to be a full compliance with the provisions hereof, which  
23 require banking institutions to maintain cash balances in their  
24 vaults or with other banks and no such member bank shall be  
25 required to carry or maintain reserve other than such as is  
26 required under the terms of the federal reserve act.

Sec. 20. The words "Federal reserve act" herein used shall  
2 be held to mean and to include the act of congress of the

3 United States approved December twenty-three, one thousand  
4 nine hundred and thirteen as heretofore and hereafter  
5 amended.

6 The words "Federal reserve board" shall be held to mean  
7 the federal reserve board created and described in the federal  
8 reserve act.

9 The words "Federal reserve bank" shall be held to mean the  
10 federal reserve banks created and organized under authority  
11 of the federal reserve act.

12 The words "Member bank" shall be held to mean any na-  
13 tional bank or state banking institution which has become or  
14 which becomes a member of one of the federal reserve banks  
15 created by the federal reserve act.

16 Any banking institution incorporated under the laws of this  
17 state shall have the power to subscribe to the capital stock and  
18 become a member of a federal reserve bank.

19 Any banking institution incorporated under the laws of this  
20 state which is, or which becomes a member of a federal reserve  
21 bank, is by this act vested with all powers conferred upon mem-  
22 ber banks of the federal reserve banks by the terms of the  
23 federal reserve act as fully and completely as if such powers  
24 were specifically enumerated and described herein, and all such  
25 powers shall be exercised subject to all restrictions and limita-  
26 tions imposed by the federal reserve act, or by regulations of  
27 the federal reserve board made pursuant thereto; *provided,*  
28 *however,* that this section shall not limit the duties and powers  
29 of the commissioner of banking to supervise, regulate, admin-  
30 ister and control all state banking institutions, nor limit the  
31 power of the commissioner of banking to declare such banking  
32 institution to be insolvent and to take charge thereof for the  
33 purpose of winding up its affairs as now or may hereafter be  
34 provided by law.

35 A compliance on the part of any such banking institution with  
36 the reserve requirements of the federal reserve act shall be held  
37 to be a full compliance with those provisions of the laws of this  
38 state which require state banking institutions to carry or main-  
39 tain reserve other than such as is required under the terms of  
40 the federal reserve act.

41 Any such banking institution shall be subject to the examina-  
42 tions required under the terms of the federal reserve act, and  
43 the authorities of this state having supervision over such bank-

44 ing institutions may in their discretion accept such examination  
45 in lieu of the examination required under the laws of this state.  
46 Such authorities, their agents and employees may furnish to  
47 the federal reserve board, the federal reserve banks, or to exam-  
48 iners duly appointed by the federal reserve board, or the federal  
49 reserve banks, copies of all examinations made, and may disclose  
50 to such federal reserve board, federal reserve banks, or exam-  
51 iner, any information with reference to the condition of affairs  
52 of banking institutions organized under the laws of this state  
53 which become members of a federal reserve bank, or which  
54 apply for membership in a federal reserve bank.

55 Any banking institution incorporated under the laws of this  
56 state which is or which becomes a member of the federal reserve  
57 bank, shall not be limited in its borrowing or rediscounting with  
58 the federal reserve bank of which it is a member.

Sec. 21. The total liabilities of any person, corporation or  
2 firm, including the liabilities of the firm and the liabilities of  
3 the several members, thereof for borrowed money by note, bonds,  
4 certificates of indebtedness or other device, including an invest-  
5 ment in the stock of any corporation, shall at no time exceed  
6 twenty *per centum* of the capital stock and surplus fund of any  
7 banking institution organized and authorized to transact busi-  
8 ness hereunder, but the discount of bills of exchange drawn in  
9 good faith against actually existing values, and the discount of  
10 commercial or business paper actually owned by the person  
11 negotiating the same, shall not be considered as money bor-  
12 rowed. The corporation mentioned in this section shall not be  
13 construed to mean municipal corporations, districts or counties,  
13-a or corporations owning the building in which the banking in-  
13-b stitution is located.

14 The stocks, bonds and other interest-bearing securities pur-  
15 chased by a banking institution shall be entered on its books at  
16 the actual cost thereof, and for the purpose of calculating the  
17 undivided profits applicable to the payment of dividends, such  
18 stocks and securities shall not be estimated at a valuation ex-  
19 ceeding their present cost as determined by amortization, that  
20 is, by deducting from the cost of any such stock or security  
21 purchased for a sum in excess of the amount payable thereon at  
22 maturity, and charging to profit and loss, a sufficient sum to  
23 bring it to par at maturity, or adding to the cost of any such  
24 stock or security purchased at less than the amount payable

25 thereon at maturity, and crediting to profit and loss, a sufficient  
26 sum to bring it to par at maturity; but nothing herein con-  
27 tained shall prevent a banking institution from carrying such  
28 stocks, bonds and other interest-bearing corporate securities on  
29 its books at their market value.

30 No officer, director, clerk or other employee of any banking  
31 institution or the commissioner of banking or any employee of  
32 the department of banking shall borrow directly or indirectly,  
33 from the banking institution with which he is connected, or is  
34 subject to his examination, any sum of money without the writ-  
35 ten approval of a majority of the board of directors or discount  
36 committee thereof filed in its office, or embodied in a resolution  
37 adopted by a majority vote of such board, exclusive of the  
38 director to whom the loan is made. If an officer, director, clerk  
39 or other employee of any bank shall own or control a majority  
40 of the stock of any other corporation, a loan to such corporation  
41 shall, for the purpose of this section, constitute a loan to such  
42 officer, director, clerk or other employee.

43 No banking institution organized and authorized to transact  
44 business hereunder shall make any loan or discount any obli-  
45 gation on the security of the shares of its own capital stock, or  
46 be the purchaser or holder of any such shares, unless taken as  
47 a pledge or purchased to prevent loss upon a debt previously  
48 contracted lawfully and in good faith; and all shares of its  
49 stock, purchased or held in such manner, shall, within six  
50 months after the time of the purchase or pledge, be sold or  
51 disposed of at public or private sale.

52 In addition to the interest rate provided by statute a banking  
53 institution may charge and collect a reasonable amount to  
54 cover the expenses incurred in procuring reports and informa-  
55 tion respecting loans and the value of and title to property  
56 offered as security therefor. Also, *provided*, a charge of one  
57 dollar may be made for any loan or forbearance of money or  
58 other thing where the interest at the rate of six *per centum*  
59 *per annum* would not amount to that sum and the same shall  
60 not be a usurious charge or rate of interest.

Sec. 22. The directors of any banking institution organized  
2 and authorized to transact business hereunder may, annually,  
3 semi-annually or quarterly, declare and pay dividends. Before  
4 the declaration of any dividend, they shall carry at least one-  
5 tenth part of the net accrued profits to its surplus fund until

6 the same shall amount to twenty per cent of its capital stock.  
7 No dividend shall be declared, except from earnings remaining  
8 after deducting all losses, all sums due for expenses, and all  
9 overdue debts upon which no interest has been paid for a period  
10 of six months, unless the same are well secured, and in process  
11 of collection. Any director voting to pay any dividend, in  
12 violation of the provisions of this section shall be personally  
13 liable to the creditors of such banking institution for any loss  
14 occasioned thereby and shall be guilty of a misdemeanor.

Sec. 23. Any banking institution doing business in this  
2 state, including national banking associations, receiving for col-  
3 lection or deposit, any check, note or other negotiable instru-  
4 ment drawn upon or payable at any other bank, located in  
5 another city or town, whether within or without this state, may  
6 forward such instrument for collection directly to the bank on  
7 which it is drawn or at which it is made payable, and such  
8 method of forwarding direct to the payor shall be deemed due  
9 diligence, and the failure of such payor bank, because of its  
10 insolvency or other default, to account for the proceeds thereof,  
11 shall not render the forwarding banking institution liable there-  
12 for; *provided, however*, that such forwarding banking institu-  
13 tion shall have used due diligence in other respects in connec-  
14 tion with the collection of such instrument. *Provided, further*,  
15 that nothing herein contained shall be construed as affecting  
16 any existing right of any such banking institution to collect any  
17 check, note or other negotiable instrument through any corre-  
18 sponding bank or clearing house.

19 No revocation, countermand or stop-payment order relating  
20 to the payment of any check or draft drawn on any banking  
21 institution doing business in this state, including national bank-  
22 ing associations, shall remain in effect for more than six months  
23 after the service thereof on such banking institution, unless the  
24 same be renewed, which renewal shall be in writing and be in  
25 effect for not more than ninety days from the date of service  
26 thereof on such banking institution after which time such check  
27 or draft may be paid by such banking institution.

28 Service of the notice herein provided for may be made upon  
29 any employee of such bank or trust company who may be found  
30 at its place of business.

31 Any banking institution in this state, including national bank-  
32 ing associations, may refuse to honor any check or draft drawn

33 on it, after the expiration of twelve months from the date pay-  
34 able, or date of demand check or draft, unless, after presenta-  
35 tion thereof, it is directed by the drawer to pay the same. No  
36 such banking institution shall incur any liability to the drawer,  
37 holder or any other person, because of the refusal to pay a  
38 check or draft, as authorized in this section.

39 Any officer, agent or clerk of any banking institution men-  
40 tioned herein who shall wilfully certify any check drawn upon  
41 such banking institution, unless the person, firm or corporation  
42 drawing the same has on deposit subject to check with the bank-  
43 ing institution, at the time such check is certified, an amount of  
44 money equal to the amount certified in such check, or shall cer-  
45 tify such check before the amount thereof shall have been reg-  
46 ularly entered to the credit of the person, firm or corporation  
47 drawing the same, upon the books or deposit slips of the banking  
48 institution, shall be guilty of a misdemeanor.

49 No banking institution, including national banking associa-  
50 tions, which has paid and charged to the account of a depositor  
51 any money on a forged or raised check issued in the name of  
52 such depositor, shall be liable to such depositor for the amount  
53 paid thereon, unless either, (a) within six months from the  
54 notice to such depositor that the vouchers representing pay-  
55 ments charged to the account of such depositor, for the period  
56 during which such payment was made, are ready for delivery,  
57 or (b) in case no such notice has been given, within six months  
58 after the return to such depositor of the voucher representing  
59 such payment, the depositor shall notify the banking institution  
60 that the check so paid is forged or raised. The notice referred  
61 to may be given by mail to such depositor at his last known  
62 address with postage prepaid. No banking institution shall be  
63 liable to a depositor because of the non-payment through mis-  
64 take or error and without malice of a check which should have  
65 been paid, unless the depositor shall allege and prove actual  
66 damages by reason of such non-payment, and in such event the  
67 liability shall not exceed the actual damages so proved.

Sec. 24. Whenever any minor shall make, or have credit for,  
2 a deposit in any banking institution, including national bank-  
3 ing associations, in his or her name, the money so deposited  
4 may be paid out on the check or order of such depositor the  
5 same as in case of a depositor of legal age, and such payment  
6 shall be in all respects valid, except when such banking insti-

7 tution has been specifically directed in writing by the parent  
8 or guardian of such minor not to make such payment.

9 Notice to any banking institution doing business in this  
10 state, including national banking associations, of an adverse  
11 claim to a deposit standing on its books to the credit of any  
12 person shall not be effectual to cause said banking institution  
13 to recognize said adverse claimant unless said adverse claimant  
14 shall also either procure a restraining order, injunction or other  
15 appropriate process against said banking institution from a  
16 court of competent jurisdiction in a cause therein instituted by  
17 him wherein the person to whose credit the deposit stands is  
18 made a party and served with process in said suit in any manner  
19 provided by law, or shall execute to said banking institution in  
20 form and with sureties acceptable to it a bond indemnifying  
21 said banking institution from any and all liability, loss, damage,  
22 costs, and expenses for and on account of the payment of such  
23 adverse claim or the dishonor of the check or other order of  
24 the person to whose credit the deposit stands on the books of  
25 said banking institution; *Provided*, that this law shall not apply  
26 in any instance where the person to whose credit the deposit  
27 stands is a fiduciary for such adverse claimant and the facts  
28 constituting such relationship, as also the facts showing reason-  
29 able cause or belief on the part of the said claimant that the  
30 said fiduciary is about to misappropriate said deposit, are made  
31 to appear by the affidavit of such claimant.

32 If any deposit in any banking institution, including national  
33 banking associations be made by any person describing himself  
34 in making such deposit as trustee for another, and no other  
35 or further notice of the existence and terms of a legal and valid  
36 trust than such description shall be given in writing to the  
37 banking institution, in the event of the death of the person so  
38 described as trustee, such deposit, or any part thereof, together  
39 with the dividends or interest thereon, may be paid to the per-  
40 son for whom the deposit was thus stated to have been made.

41 When a deposit is made by any person in the name of such  
42 depositor and another person and in form to be paid to either,  
43 or the survivor of them, such deposit, and any additions thereto  
44 made, by either of such persons, upon the making thereof shall  
45 become the property of such persons as joint tenants; and the  
46 same, together with all interest thereon, shall be held for the  
47 exclusive use of the persons so named, and may be paid to

48 either during the lifetime of both, or to the survivor after the  
49 death of one of them; and such payment and the receipt or the  
50 acquittance of the one to whom such payment is made shall be  
51 a valid and sufficient release and discharge for all payments  
52 made on account of such deposit, prior to the receipt by the  
53 banking institution of notice in writing, signed by any one of  
54 such joint tenants, not to pay such deposit in accordance with  
55 the terms thereof.

56 No banking institution organized and authorized to transact  
57 business hereunder shall accept or receive on deposit, with or  
58 without interest, any money of the United States of America,  
59 bills, checks or drafts, when such banking institution is in-  
60 solvent; and any officer, director, cashier, manager, member,  
61 employee or stockholder of any banking institution who shall  
62 knowingly violate the provisions of this section or be accessory  
63 to, or permit or connive at, the receiving or accepting on deposit  
64 of any such deposits, shall be guilty of a misdemeanor. For  
65 the purpose of this section only, a banking institution shall be  
66 deemed to be insolvent when the available assets under its con-  
67 trol and not hypothecated are not of sufficient value to pay off  
68 and discharge all of its liabilities, except its capital stock.

Sec. 25. No act or transaction of any banking institution in  
2 this state, including national banking associations, shall be void  
3 or voidable because done on a legal holiday or a Sunday. But  
4 this section shall not be construed to require of any such insti-  
5 tution the doing of any act on a legal holiday or a Sunday.

6 Nothing in any law of this state shall in any manner what-  
7 soever affect the validity of, or render void or voidable, the pay-  
8 ment, certification or acceptance of a check or other negotiable  
9 instrument or any other transaction by a banking institution  
10 in this state because done or performed on any Saturday be-  
11 tween twelve o'clock noon and mid-night; *Provided*, such pay-  
12 ment, certification, acceptance, or other transaction would be  
13 valid if done or performed before twelve o'clock noon on such  
14 Saturday; *Provided, further*, that nothing herein shall be con-  
15 strued to compel any banking institution in this state, which  
16 by law or custom is entitled to close at twelve o'clock noon on  
17 any Saturday, to keep open for the transaction of business or  
18 to perform any of the acts or transactions aforesaid, on any  
19 Saturday after such hour except at its own option.

Sec. 26. Whoever, directly or indirectly willfully and knowingly makes or transmits to another, or circulates, or counsels, aids, procures, or induces another to make, transmit or circulate, any false or untrue statement, rumor or suggestion derogatory to the financial condition, solvency or financial standing of any banking institution, including a national banking association, doing business in this state, or with intent to depress the value of the stocks, bonds, or securities of any such banking institution, directly or indirectly, willfully and knowingly makes or transmits to another, circulates or counsels, aids, procures or induces another to make, transmit or circulate any false or untrue statement, rumor or suggestion derogatory to the financial condition, or with respect to the earnings or management of the business of any banking institution, or resorts to any fraudulent means with intent to depress in value the stocks, bonds or securities of any banking institution, shall be guilty of a misdemeanor.

Sec. 27. Any person who shall willfully or knowingly make, or cause to be made any false entry in any book, record or document of any corporation subject to supervision by the department of banking, or fail to make proper entry therein, or make, or cause to be made, any false statement, or exhibit any falsified, forged or invalid paper, with intent to deceive any person authorized to examine into the affairs of such corporation; or shall make, state or publish any false statement of the financial condition of such corporation, knowing the same to be false, shall be deemed guilty of a felony, and, upon conviction thereof shall be punished by confinement in the penitentiary not to exceed ten years, and also, in the discretion of the court, may be fined not to exceed ten thousand dollars.

Sec. 28. It shall be unlawful for any officer, director or employee of any banking institution, building and loan association or other corporation under supervision of the department of banking to receive, directly or indirectly, any compensation, consideration, or thing of value from any person for making, or causing such corporation to make, a loan or extend credit to any person whomsoever. Any person violating any provision of this section shall be guilty of a misdemeanor.

Sec. 29. Every president, director, cashier, teller, clerk or agent of any corporation mentioned herein, who embezzles, abstracts or willfully misapplies any of the money, funds or credits

4 of the institution, or who, without authority from the directors,  
5 issues or puts in circulation any of the notes of any banking  
6 institution; or who, without such authority, issues or puts forth  
7 any certificate of deposit, draws any order or bill of exchange,  
8 makes any acceptance, assigns any note, bond, draft, bill of  
9 exchange, mortgage, judgment or decree; or who makes any  
10 false entry in any book, report or statement of any such cor-  
11 poration or fails to make proper entries therein, with intent,  
12 in either case, to injure or defraud the corporation or any other  
13 company, body politic or corporate, or any person, or to de-  
14 ceive any officer of any banking institution or other corporation,  
15 or any agent appointed to examine the affairs of such banking  
16 institution or other corporation, and every person who with  
17 like intent, in any way aids or abets any officer, clerk or agent  
18 in the violation of this section, shall be guilty of a felony, and,  
19 on conviction thereof, shall be imprisoned in the penitentiary  
20 not less than ten years.

Sec. 30. If the commissioner of banking shall revoke the  
2 certificate of authority, permit or license of any banking insti-  
3 tution in this state, or building and loan association, or other  
4 corporation which has been or may be placed under the super-  
5 vision of the department of banking, organized under the laws  
6 of this state, and any such corporation shall, within a reasonable  
7 time, fail to comply with the laws of the state and the require-  
8 ments of the department of banking and thereby fail to secure  
9 a new certificate of authority, permit or license to continue in  
10 business it shall be the duty of the commissioner of banking to  
11 compel any such offending corporation to go into liquidation,  
12 wind up its affairs, and surrender its charter. In any such case  
13 the attorney general, at the request of the commissioner of  
14 banking, shall institute a suit in chancery in the circuit court  
15 of the county in which the business of the offending corporation  
16 is located, in the name of the state of West Virginia, to wind up  
17 the affairs and dissolve such corporation, and such court shall  
18 have jurisdiction to make and enter all necessary and proper  
19 orders and to wind up the affairs and dissolve the corporation  
20 as in the case of insolvent or bankrupt corporations.

21 If any building and loan association or other corporation  
22 which has been or may be placed under the supervision of the  
23 department of banking, organized under the laws of any other  
24 jurisdiction, authorized and licensed to transact business in

25 this state, shall, within a reasonable time after the revocation  
26 of its certificate of authority, license or permit to transact busi-  
27 ness in this state, fail to comply with the laws of the state and  
28 the requirements of the department of banking and thereby  
29 fail to secure a new certificate of authority, permit or license  
30 to continue in business, it shall be the duty of the commissioner  
31 of banking to cause the assets of such offending corporation  
32 located in the state of West Virginia to be liquidated, and to  
33 compel such corporation to cease to transact business in the  
34 state of West Virginia. At the request of the commissioner of  
35 banking, the attorney general shall institute and prosecute any  
36 suit or suits in the circuit court of the county in which any of  
37 the assets of the offending corporation may be located, in the  
38 name of the state of West Virginia, to accomplish the purposes  
39 of this section.

40 If any banking institution organized and authorized to trans-  
41 act business hereunder, or building and loan association or other  
42 corporation which has been or may be placed under the super-  
43 vision of the department of banking, wherever incorporated  
44 authorized to transact business in this state, shall fail, neglect  
45 or refuse to make any report to the department of banking re-  
46 quired by the provisions hereof and requested by the commis-  
47 sioner of banking, or fail to observe and comply with the re-  
48 quirements of the laws of this state, or to correct any irregulari-  
49 ties or practices disapproved by the commissioner of banking,  
50 and in case such failure shall continue for the period of thirty  
51 days after notice to the corporation from the commissioner of  
52 banking, the commissioner of banking may revoke the certificate  
53 of authority, license or permit authorizing the offending cor-  
54 poration to transact business in the state of West Virginia.

Sec. 31. In any voluntary or compulsory proceeding to  
2 liquidate a banking institution organized and authorized to  
3 transact business hereunder, such banking institution, if the  
4 proceeding be not in court, with the consent in writing of the  
5 commissioner of banking, and if the proceeding be in court, with  
6 the consent in writing of the commissioner of banking and the  
7 approval of the court, may reorganize, reclaim possession of its  
8 assets and continue in business. Any such banking institution  
9 may at any time with the consent in writing of the commissioner  
10 of banking, take over the business and assets and assume the  
11 liabilities, including all the fiduciary duties, relations and lia-

12 bilities of another banking institution, either national or state,  
13 all of the terms and conditions of any such purchase or consoli-  
14 dation to be first approved by the commissioner of banking.

15 Whenever a banking institution engaged in business in this  
16 state, authorized to exercise trust powers, consolidates with or  
17 sells its business to another banking institution with such  
18 powers, the purchasing or consolidated banking institution shall,  
19 with the approval of the circuit court when necessary, succeed  
20 to all the duties, rights and privileges of the retiring banking  
21 institution and shall assume all liabilities thereunder.

22 Upon the completion of such purchase or consolidation as  
23 herein prescribed, the purchasing or consolidated corporation  
24 shall possess all the rights, privileges, powers and franchises of  
25 each of the participating corporations and the entire assets,  
26 business, good will and franchises of each shall be vested in the  
27 purchasing or consolidated corporation and the corporations  
28 may execute such deeds or instruments of conveyance as may  
29 be convenient to confirm the same and the purchasing or con-  
30 solidated corporation shall assume and be liable for all debts,  
31 accounts, undertakings, contractual obligations and liabilities  
32 of every name and nature, as may be agreed upon, of the partici-  
33 pating corporation and shall exercise and be subject to all the  
34 duties, relations, obligations, trusts and liabilities of each of the  
35 participating corporations, either as debtor, depository, regis-  
36 trar, transferee, agent, executor, administrator, trustee, or other-  
37 wise, and shall be liable to pay and discharge all such debts and  
38 liabilities, to perform all such duties and to administer all such  
39 trusts in the same manner and to the same extent as if the  
40 purchasing or consolidated corporation had itself incurred the  
41 obligation or liability or assumed the duty, relation or trust, and  
42 the rights of creditors and all liens upon the property of either  
43 of such participating corporations shall be preserved unim-  
44 paired and said purchasing or consolidated corporation shall be  
45 entitled to receive, accept, collect, own and enjoy any and all  
46 gifts, bequests, devises, conveyances, trusts and appointments  
47 in favor of or in the name of either of said participating cor-  
48 porations either made or created to take effect prior to or after  
49 such purchase or consolidation, and the same shall inure to and  
50 vest in said purchasing or consolidated corporation; and no  
51 suit, action or other proceeding pending at the time of such  
52 purchase or consolidation before any court in which either of

53 said participating corporations is a party shall be abated or  
54 discontinued because of such consolidation, but may be con-  
55 tinued and prosecuted to final effect by or against the pur-  
56 chasing or consolidated corporation. The purchasing or con-  
57 solidated corporation shall have the right to use the name of  
58 either of the participating corporations whenever it can do any  
59 act or discharge any duty or obligation or enforce any right  
60 under such name more conveniently or with greater advantage  
61 to itself or to any person to whom it holds any relation of trust  
62 or owes any duty under any contract or conveyance, and no  
63 other corporation shall take or use the name of either of said  
64 participating corporations.

65 Any banking institution organized and authorized to trans-  
66 act business hereunder, may, after thirty days' notice to the  
67 commissioner of banking, cease to transact business and go into  
68 voluntary liquidation and convert its assets into money and pay  
69 the same to the persons entitled thereto.

Sec. 32. If the commissioner of banking shall ascertain from  
2 any source that the capital of any corporation doing business  
3 hereunder, in this state, is substantially impaired, and such  
4 institution, upon notice from him, does not promptly make  
5 good such impairment, or that any such institution in this  
6 state is insolvent, he shall have authority to appoint an em-  
7 ployee of the department of banking receiver of such institu-  
8 tion to take charge of the papers, books, records, moneys and  
9 assets of every description of such institution, and he shall  
10 make in duplicate a complete inventory of all assets and an  
11 itemized list of all liabilities of said institution, the original  
12 copy of which shall be filed with the department of banking  
13 and the duplicate retained by the receiver, who shall, upon  
14 assuming office, open and keep such books and records as are  
15 prescribed by the commissioner of banking.

16 Such receiver shall have all the powers vested in special  
17 receivers by general law. The receiver, under the authority  
18 of the commissioner of banking, shall institute and prosecute  
19 any suit or suits necessary to obtain possession of any property  
20 and to sell and dispose of the same and to collect all obligations  
21 due such institution. The receiver in such suit, or by separate  
22 suits, under the authority of the commissioner of banking,  
23 shall enforce against the officers, directors and stockholders any  
24 liability incurred by them and existing in favor of the creditors

25 of the institution and collect from such officers, directors and  
26 stockholders any sums for which they are liable as aforesaid.

27 If it shall appear that the assets of the insolvent corporation  
28 are not sufficient to pay in full all of its creditors and de-  
29 positors, without waiting to administer the assets of such  
30 institution, or delaying for any other cause, in the same suit  
31 or in separate suits, to be forthwith instituted in the same or  
32 any other jurisdiction in his name, the receiver, under the  
33 authority of the commissioner of banking, shall collect from  
34 each of the several stockholders of such institution all sums for  
35 which they are severally liable to such institutions, for the  
36 benefit of its creditors.

37 If it shall be necessary to institute any suit against any  
38 stockholder in the courts of any other state, the same may be  
39 either instituted and prosecuted in the name of the commis-  
40 sioner of banking, or, at his election, in the name of the  
41 receiver or the corporate name of the institution which is in  
42 process of liquidation, and any such receiver may bring a suit  
43 in the circuit court of the county where such institution is  
44 located, to ascertain the several depositors and creditors of such  
45 institution and the amounts and priorities of their respective  
46 claims. The banking institution and the stockholders of said  
47 banking institution residing in this state shall be made defend-  
48 ants to said suit, and all persons who shall file proofs of claim  
49 shall be deemed parties thereto as though they had been named  
50 as defendants. The court shall refer said cause to a commissioner  
51 in chancery, and said commissioner shall thereupon cause to  
52 be published once in each week for four successive weeks, in  
53 some newspaper published in the county wherein the suit is  
54 pending, a notice to all depositors and creditors of the banking  
55 institution, requesting them to present their claims to such  
56 commissioner for allowance. After publication of such notice  
57 is completed, the said commissioner in chancery shall proceed  
58 as promptly as possible to ascertain and report the several  
59 depositors and creditors of the said banking institution and  
60 the amounts and priorities of their respective claims, if any,  
61 proven before him. All claims as shall have been duly proved  
62 and allowed by the receiver or the commissioner of banking  
63 before the decree of reference may be allowed and reported  
64 by the commissioner in chancery without further proof, unless

65 the same shall be contested and disallowed for proper cause.  
66 The commissioner in chancery shall also ascertain and report  
67 what funds and assets of the banking institution have come  
68 into the hands of the receiver, what disposition has been made  
69 of said assets, and what dividends, if any, have been paid and  
70 settle the accounts of said receiver. When the report of such  
71 commissioner is confirmed, the court shall enter such orders and  
72 decrees and take such proceedings as are proper to ascertain the  
73 several depositors and creditors of such banking institution and  
74 adjudicate their respective rights and direct the distribution of  
75 the assets and funds in the hands of the receiver and confirm  
76 any distribution made under orders of the commissioner of  
77 banking, and may confirm any and all sales made by said re-  
78 ceiver of property and assets of said banking institution. Any  
79 creditor whose claim is not presented and allowed before any de-  
80 cree of distribution becomes final shall be forever barred from  
81 participating in the funds distributed under such decree, or  
82 theretofore distributed and confirmed by such decree, and shall  
83 have no claim by reason of such distribution against any credi-  
84 tor sharing therein or against the commissioner of banking, the  
85 receiver, or any surety upon the receiver's bond. Any claim  
86 which shall have been proved and allowed after any dividend  
87 or distribution has been made by the receiver, shall be paid  
88 dividends equal or proportionate in amount to those already  
89 received by the other creditors of the same rank and priority,  
90 if the funds and assets in the hands of the receiver are suffi-  
91 cient therefor, before such other creditors receive any further  
92 dividend or distribution.

93 In any such suit brought by the receiver for the purpose of  
94 ascertaining the several depositors and creditors of such in-  
95 stitution as hereinbefore provided, the receiver may also pro-  
96 ceed against the officers, directors and stockholders of the bank-  
97 ing institution to enforce their individual liabilities as herein-  
98 above provided, or for the adjudication of any other pertinent  
99 matter involved in the administration of the assets and affairs  
99-a of such institution.

100 All of the assets of any such insolvent institution shall be  
101 administered under, applied and paid out through the orders  
102 of the commissioner of banking, as herein provided. The costs  
103 and expenses of the receivership and of any suit or suits  
104 brought by the receiver under the direction of the commis-

105 sioner of banking shall be entitled to priority of payment out  
106 of the assets of such institution.

107 The receiver shall, by proper proceedings, ascertain the  
108 several creditors and the amounts and priorities of their re-  
109 spective claims against such institution, and shall, from time  
110 to time, as the assets of such institution are reduced to pos-  
111 session, and converted into cash, pay the same to the several  
112 creditors in the order and the manner in which they are  
113 respectively entitled to payment: *Provided, however,* that  
114 without regard to priority, the receiver may at any time pay  
115 in full the claim of any creditor which is less than five dollars.

116 If the assets of any such institution, including any sums  
117 collected from the officers and directors thereof, and all sums  
118 collected from the stockholders, shall more than suffice to pay  
119 all of the creditors of such institution who have presented and  
120 proved, or caused to be allowed, their several demands, the sur-  
121 plus shall be disbursed as follows: First, in the case of a bank-  
122 ing institution, to the stockholders who have paid in any sums  
123 upon their extraordinary liability as stockholders *pro rata* up  
124 to the respective amounts paid by each of them. Second, if  
125 anything shall remain thereafter it shall be paid to the stock-  
126 holders of the institution in proportion to the number of shares  
127 owned by them respectively.

128 The salary of such receiver for the time devoted to such re-  
129 ceivership and all expenses incurred by such receiver in the  
130 discharge of his duties, including reasonable fees paid for legal  
131 services, shall be paid out of the assets of such institution as a  
132 part of the costs of the receivership. No other compensation  
133 shall be paid to such officer for acting as receiver of such in-  
133-a stitution.

134 The receiver of any such insolvent institution, before enter-  
135 ing upon the discharge of his duties, or receiving into his pos-  
136 session any of the assets of such insolvent institution, shall  
137 enter into bond in favor of the state of West Virginia, in a  
138 penalty fixed by and with corporate surety approved by the  
139 governor, conditioned for the faithful discharge of his duties  
140 as receiver, and for accounting for and paying over, as re-  
141 quired by law, all properties, moneys and funds which shall  
142 come into the hands of such receiver, his agents, attorneys or  
143 representatives. The bond and certificate of appointment of

144 such receiver shall be recorded in the office of the clerk of the  
145 county court of the county in which said banking institution is  
145-a situated and a certified copy thereof shall be forthwith  
146 transmitted by the receiver to the commissioner of banking.

147 Nothing in this section shall impair the right of any court  
148 of chancery in any suit, on a proper showing, to appoint a  
149 receiver for any such institution in cases where the commis-  
149-a sioner of banking has failed, refused or neglected to act.

150 The receivers of all banking institutions in process of liqui-  
151 dation at the present time shall be continued in office and  
152 shall possess all the rights, powers, duties and obligations which  
153 they have under existing laws and/or by this act.

Sec. 33. All banking institutions organized and authorized  
2 to do business hereunder shall be organized, governed and con-  
3 ducted in all respects in the same manner as provided for cor-  
4 porations organized under the general corporation laws of this  
5 state in so far as the same are not inconsistent with the pro-  
6 visions hereof.

Sec. 34. If any section, clause, sentence, paragraph, or other  
2 part hereof shall for any reason be adjudged by any court of  
3 competent jurisdiction to be invalid, such judgment shall not  
4 affect, impair, or invalidate the remainder hereof, but shall be  
5 confined in its operation to the part hereof directly involved in  
6 the controversy in which such judgment shall be rendered.

Sec. 35. The failure to perform any duty required of any  
2 corporation or individual, or the doing of any act forbidden by  
3 any corporation or individual, by any of the sections hereof,  
4 except any act which is made a felony by any provision hereof  
5 shall be a misdemeanor, and for any such misdemeanor com-  
6 mitted by a corporation, the officers and directors responsible  
7 for the corporate acts or for the failure of the corporation to  
8 act, shall each be guilty of a misdemeanor. On conviction for  
9 any misdemeanor hereunder, any offending corporation shall  
10 be fined not more than five thousand dollars; and any offending  
11 individual shall be fined not more than one thousand dollars  
12 and may, at the discretion of the court, be confined in the county  
13 jail for not more than one year, except as provided elsewhere  
14 herein.

15 Nothing in this act contained, repealing any law for the  
16 regulation or conduct of banking shall be construed to relieve  
17 any person from punishment for any acts heretofore committed

18 violating said law or laws, nor affect in any manner an existing  
19 indictment or prosecution by reason of such repeal; and for  
20 that purpose, such law or laws shall continue in full force and  
21 effect, notwithstanding such repeal.

22 It shall be the duty of the attorney general, either in person  
23 or by competent assistant, upon the request of the governor, to  
24 take charge of the prosecution of persons indicted for violation  
25 of any section hereof.

## CHAPTER 24

(House Bill No. 28—By Mr. Robinson)

AN ACT to amend and re-enact section twelve, of chapter ninety-one of the acts of the legislature of nineteen hundred and twenty-five relating to regulating the business of making loans in the sum of three hundred dollars, or less.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

12. Interest on loans not exceeding three hundred dollars; rate; how computed; no other charge per-

mitted; interest rates on loans of more than three hundred dollars.

*Be it enacted by the Legislature of West Virginia:*

That section twelve, chapter ninety-one, of the acts of legislature of West Virginia of nineteen hundred and twenty-five be amended and re-enacted so as to read as follows:

Section 12. Every person, co-partnership and corporation licensed hereunder may loan any sum of money not exceeding in amount the sum of three hundred dollars and may charge, contract for and receive thereon interest at a rate not to exceed two *per centum* per month. Interest shall not be payable in advance or compounded and shall be computed on unpaid balances only. In addition to the interest herein provided for, no further or other charge or amount whatsoever for any examination, service, brokerage, commission or other thing or otherwise shall be directly or indirectly charged, contracted for or received, except the lawful fees, if any, actually necessarily paid out by the licensee to any public officer for filing or recording or releasing in any public office any instrument securing the loan, which fees may be collected when the loan

15 is made or at any time thereafter. If interest or charges in  
 16 excess of those permitted by this act shall be charged, con-  
 17 tracted for or received, the contract of loan shall be void and  
 18 the licensee shall have no right to collect or receive any prin-  
 19 cipal, interest, or charges whatsoever.

20 No licensee shall directly or indirectly charge, contract for  
 21 or receive any interest or consideration greater than six per  
 22 *centum per annum* upon the loan, use or forbearance of  
 23 money, goods or things in action, or upon the loan, use or  
 24 sale of credit of the amount or value of more than three hun-  
 25 dred dollars. The foregoing prohibition shall also apply to  
 26 any licensee who permits any person, as borrower or as en-  
 27 dorser, guarantor or surety for any borrower, or otherwise, to  
 28 owe directly or contingently or both to the licensee at any  
 29 time the sum of more than three hundred dollars for prin-  
 30 cipal.

## CHAPTER 25

(Senate Bill No. 71—By Mr. Engle)

AN ACT to amend and re-enact chapter fifty-five of Barnes' code of West Virginia one thousand nine hundred and twenty-three, by adding a new section thereto to be known as section thirteen-a, relating to incorporated non-stock Mutual Fire Insurance associations and providing for the use of two-thirds, three-fourths, eighty per cent and ninety per cent value clauses.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

13-a. Use of two-thirds, three-fourths,  
 eighty per cent and ninety per

cent clauses in policies of farm-  
 ers mutual co-operative fire in-  
 surance companies validated.

*Be it enacted by the Legislature of West Virginia:*

A bill to amend and re-enact chapter fifty-five of Barnes' code of West Virginia one thousand nine hundred and twenty-three, by adding a new section thereto to be known as section thirteen-a relating to incorporated non-stock Mutual Fire Insurance associations and providing for the use of two-thirds, three-fourths, eighty per cent and ninety per cent value clauses.

Section 13-a. That the fire insurance companies mentioned 2 in section eleven of chapter fifty-five shall have the right to use 3 the two-thirds, three-fourths, eighty per cent and ninety per 4 cent value clauses and all similar clauses, when properly in- 5 corporated in or attached to the policy of fire, lightning or 6 tornado insurance issued by the so-called farmers' mutual co- 7 operative fire insurance companies chartered under the laws 8 of the state of West Virginia, and when so used as aforesaid 9 shall be valid and effective.

10 All acts and parts of acts inconsistent herewith are hereby 11 repealed.

## CHAPTER 26

(Senate Bill No. 102—By Mr. Engle)

AN ACT to amend and re-enact section five of chapter sixty-six of Barnes' West Virginia code of one thousand nine hundred and twenty-three, authorizing a married woman to insure the life of her husband and exempting the proceeds thereof from his representatives or creditors.

[Passed March 5, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

5. Married woman may insure for her use life of her husband; net amount due payable to her; ex-

ception when premium paid out of funds of husband; notice to company issuing policy.

*Be it enacted by the Legislature of West Virginia:*

That section five of chapter sixty-six of Barnes' code of West Virginia for the year one thousand nine hundred and twenty-three be amended and re-enacted to read as follows:

Section 5. It shall be lawful for any married woman, by 2 herself and in her name, or in the name of any third person, 3 with her assent, as her trustee, to cause to be insured for her 4 sole use, the life of her husband, for any definite period, or for 5 the term of his natural life; and in case of her surviving her 6 husband, the sum or net amount of the insurance becoming due 7 and payable by the terms of the insurance, shall be payable to 8 her, and for her own use, free from the claims of the repre- 9 sentatives of her husband or any of his creditors; *provided*, that,

10 subject to the statute of limitations, the amount of any pre-  
 11 miums for said insurance paid out of the funds or property of  
 12 the husband with intent to defraud creditors, with interest  
 13 thereon, shall enure to their benefit from the proceeds of the  
 14 policy; but the company issuing the policy shall be discharged  
 15 of all liability thereon by payment of its proceeds in accord-  
 16 ance with its terms, unless before such payment the company  
 17 shall have written notice, by or in behalf of a creditor, of a  
 18 claim to recover for premiums paid with intent to defraud  
 19 creditors, with specifications of the amount claimed.

## CHAPTER 27

(Senate Bill No. 163—By Mr. Engle)

AN ACT in relation to the rights of creditors and beneficiaries  
 under policies of life insurance.

[Passed March 5, 1929; in effect ninety days from passage. Approved by the  
 Governor.]

SEC.

- |   |   |
|---|---|
| 1. Lawful beneficiary or assignee of<br>insurance policy entitled to pro-<br>ceeds; when proceeds of policy | inure to benefit of creditors of<br>insured; notice to company issu-<br>ing policy. |
|---|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. If a policy of insurance, whether heretofore or  
 2 hereafter issued, is effected by any person on his own life or  
 3 on another life, in favor of a person other than himself, or, ex-  
 4 cept in cases of transfer with intent to defraud creditors, if a  
 5 policy of life insurance is assigned or in any way made payable  
 6 to any such person, the lawful beneficiary or assignee thereof,  
 7 other than the insured or the person so effecting such insurance,  
 8 or his executors or administrators, shall be entitled to its pro-  
 9 ceeds and avails against the creditors and representatives of  
 10 the insured and of the person effecting the same, whether or not  
 11 the right to change the beneficiary is reserved or permitted,  
 12 and whether or not the policy is made payable to the person  
 13 whose life is insured if the beneficiary or assignee shall pre-  
 14 decease such person; *provided*, that, subject to the statute of  
 15 limitations, the amount of any premiums for said insurance  
 16 paid with intent to defraud creditors, with interest thereon,  
 17 shall enure to their benefit from the proceeds of the policy;

18 but the company issuing the policy shall be discharged of all  
 19 liability thereon by payment of its proceeds in accordance with  
 20 its terms, unless before such payment the company shall have  
 21 written notice, by or in behalf of a creditor, of a claim to recover  
 22 for transfer made or premiums paid with intent to defraud  
 23 creditors, with specifications of the amount claimed.

## CHAPTER 28

(House Bill No. 360—By Mr. Hogg)

**AN ACT** providing for the amendment and re-enactment of section seventy-six-b of chapter thirty-four, Barnes' code of West Virginia, one thousand nine hundred and twenty-three, as amended by chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-seven, providing for the supervision of insurance rate making associations, penalties for the violation of the same, and providing for adjustments in certain cases.

[Passed March 8, 1929; in effect from passage. Became a law without the approval of the Governor.]

<p>Sec. 76-b (1) Fire insurance companies to be members or rating bureau. (2) Commissioner of insurance. (3) Members and expense of rating bureaus. (4) Companies to specify rating bureaus of which it is a member. (5) Inspection and rating by rating bureau. (6) Bureau to file schedules, rate table, etc., with commissioner. (7) Hearings on rate charges; appeal from order of commissioner. (8) Inquiries by commissioner to bureau. (9) Examination of bureaus by commissioner.</p>	<p>(10) Unfair discrimination in rates prohibited. (11) Uniform deviation in rates, when permitted. (12) Action of commissioner on complaint of discrimination in rates; appeal from decision. (13) Company to file schedule of premium receipts and losses; commissioner may reduce or increase rates; notice to companies. (14) Procedure on disapproval of agreement. (15) Act not to apply to farmer mutual and others; adjuster to make adjustments for all companies requesting same. (16) Penalties for violations of act.</p>
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*Be it enacted by the Legislature of West Virginia:*

That section seventy-six-b of chapter thirty-four, Barnes' code of West Virginia, one thousand nine hundred and twenty-three, as amended by chapter thirty-one of the acts of the legislature of one thousand nine hundred and twenty-seven be amended and re-enacted so as to read as follows:

Section 76-b. (1) Every fire insurance company or other insurer authorized to effect insurance against the risk of loss

3 or damage by fire in this state shall maintain or be a member  
4 of a rating bureau. No such insurer shall be a member of  
5 more than one rating bureau for the purpose of rating the  
6 same risk.

7 (2) The term "commissioner" as used in this act shall  
8 mean the commissioner of insurance. Until a commissioner  
9 of insurance has been appointed, the functions of the com-  
10 missioner under the provisions of this act shall be performed  
11 by the auditor of state.

12 (3) A rating bureau may consist of one or more insurers,  
13 and when consisting of two or more insurers, shall admit to  
14 membership or furnish service to any authorized insurer ap-  
15 plying therefor. The expense of the bureau shall be shared  
16 in proportion to the gross premiums less return premiums  
17 and premiums on marine and farm risks and premiums for  
18 re-insurance and less any return of gains and savings on  
19 participating policies received by each member during the  
20 preceding year in this state, to which may be added a reason-  
21 able annual fee not exceeding twenty-five dollars. Each  
22 member shall have one vote.

23 (4) Every fire insurance company or other insurer afore-  
24 said shall, within sixty days after the taking effect of this  
25 act and thereafter, in its annual application for license, spe-  
26 cify each rating bureau making rates upon property located  
27 within this state of which it is a member, and during the  
28 year, file written notice of any other rating bureaus of which  
29 it shall become a member.

30 (5) Every rating bureau engaged in making rates on  
31 property located in this state shall inspect every risk spe-  
32 cifically rated by it upon schedule and shall make a written  
33 rating survey of such risk which shall be filed as a perman-  
34 ent record in the office of such bureau. Rates for insurance  
35 on all property rated upon a flat rate basis shall also be filed  
36 in such office. A copy of such survey shall be furnished  
37 without cost to the owner of any risk upon his request.

38 (6) Within sixty days after the establishment of any rat-  
39 ing bureau in this state, it shall file with the commissioner a  
40 copy of its articles of association and by-laws, and any and  
41 all schedules used by it as a basis for the making of rates.  
42 The bureau shall also file with the commissioner the basis or  
43 table rate that is used in each town in West Virginia. It

44 shall also file with the commissioner all regulations or rules  
45 of any such rating bureau. No rule, regulation, or by-laws,  
46 shall be passed by any bureau which interferes with the legal  
47 operation of any member or subscriber to its service.

48 (7) In the event that any rating bureau should desire  
49 to make a change in its established schedules, rules, regula-  
50 tions, contracts or agreements, it shall submit such proposed  
51 change in writing to the commissioner and the said commis-  
52 sioner shall thereupon order a hearing not earlier than twen-  
53 ty days thereafter, which hearing may be attended by any  
54 persons whose interests may be affected by such proposed  
55 change. At the conclusion of such hearing, the commissioner  
56 shall make such finding and order in the premises as he shall  
57 consider proper. In the event any party in interest is dis-  
58 satisfied with such finding and order of the commissioner, he  
59 may within thirty days thereof commence an action in any  
60 court of competent jurisdiction for the purpose of reviewing  
61 such order, as provided in section fourteen hereof, but pend-  
62 ing such review the order of the commissioner shall remain  
63 in full force and effect. When the insurance commissioner  
64 shall determine, after a full hearing upon notice served in the  
65 manner prescribed by law upon all of the insurance com-  
66 panies and rating bureaus which may be affected by such  
67 order, that any rate or rates made by such bureau in this  
68 state are excessive or unreasonably high or that said rate or  
69 rates are discriminatory, he is authorized to direct said bureau  
70 to change said rate or rates and to publish and file a rate or  
71 rates prescribed by him which are just and reasonable and  
72 non-discriminatory and the commissioner shall enter an or-  
73 der showing his findings in the premises. Any party in in-  
74 terest being dis-satisfied with any such order of the com-  
75 missioner may, within thirty days from the issuance of such  
76 order and notice thereof, commence an action in the circuit  
77 court of Kanawha county for the purpose of reviewing such  
78 order and such cause shall be duly set for hearing and pro-  
79 ceed as in other cases. During the pendency of such court  
80 proceedings the order shall be suspended, and in the event of  
81 final determination against any insurer, any overcharge dur-  
82 ing the pendency of such proceedings shall be refunded by  
83 the insurer to the person entitled thereto. The commissioner  
84 may compel obedience to his lawful orders by proceedings of

85 mandamus or injunction or other proper proceedings in the  
86 name of the state in any circuit court having jurisdiction of  
87 the parties or of the subject matter, and such proceedings  
88 shall have priority over all pending cases.

89 (8) The commissioner may from time to time address in-  
90 quiries to any individual or bureau which is engaged in mak-  
91 ing rates upon property in this state, in relation to its organ-  
92 ization, maintenance or operation or any other matter con-  
93 nected with its transactions and may also require the filing  
94 of schedules, written reports of surveys in individual cases,  
95 rates, forms, rules and regulations and other information and  
96 he may also require re-survey of any risk or group of risks.  
97 It shall be the duty of every individual, association or bureau  
98 to comply promptly with his request; *provided, however,*  
99 surveys and completed schedules and re-surveys upon indi-  
100 vidual risks may be required only where written complaint is  
101 filed with the commissioner by the owner of such risk.

102 (9) The commissioner shall have the power to examine  
103 any such rating bureau as often as he deems it expedient to  
104 do so, but not less than once every three years. A report  
105 thereof shall be filed in his office. The expense of such ex-  
106 aminations shall be paid by such rating bureau. A statement  
107 with regard to such examination shall be made in the annual  
108 report of the commissioner.

109 (10) No fire insurance company or other insurer against  
110 the risk of fire, nor any rating bureau, shall fix or charge  
111 any rate for fire insurance upon property in this state which  
112 discriminates unfairly between risks in the application of like  
113 charges and credits, or which discriminates unfairly between  
114 risks of essentially the same hazards, and having substantially  
115 the same degree of protection against fire.

116 (11) Any deviation of any company or insurer from the  
117 schedule of rates established and maintained by the bureau  
118 which it maintains, or of which it is a member, shall be uniform  
119 in its application to all of the risks in the class for which  
120 the variation is made, and no such uniform deviation shall be  
121 made unless notice thereof shall be filed with the bureau of  
122 which the insurer is a member and the commissioner of this  
123 state, at least fifteen days before such uniform variation is in  
124 effect, and schedules providing for such variation shall be  
125 filed with the rating bureau and the commissioner showing

126 the amended basis rate and amended charges and credits and  
127 application of the amended schedules to individual risks in  
128 the class or classes affected. Every company or insurer shall  
129 be permitted to make uniform deviations by schedule per-  
130 centage reductions in the specific rates of any bureau of  
131 which it is a member or subscriber, and rating bureaus shall  
132 not have rules and regulations which interfere with making  
133 such uniform reductions or uniform deviations by schedule.

134 (12) The commissioner may upon written complaint that  
135 discrimination in rates exists between risks in the applica-  
136 tion of like charges or credits, or discrimination between  
137 risks of essentially the same hazard and having substantially  
138 the same degree of protection against fire, order a hearing  
139 for the purpose of determining such questions of discrimina-  
140 tion, and the review of such questions and the rates com-  
141 plained of before said commissioner shall be had only after  
142 due notice to all parties interested, and if upon such hearing  
143 the commissioner shall determine that the rate complained of  
144 is discriminatory, he shall have power to order the discrimi-  
145 nation removed and a rate substituted by the rating bureau or  
146 insurer which is not discriminatory. Any party in interest  
147 being dissatisfied with any order of the commissioner may,  
148 within thirty days from the issuance of such order and notice  
149 thereof, commence an action in the circuit court of Kanawha  
150 county for the purpose of reviewing such order and such  
151 cause shall be duly set for hearing and proceed as in other  
152 cases. During the pendency of such court proceedings the  
153 order shall be suspended, and in the event of final determin-  
154 ation against any insurer, any overcharge during the pend-  
155 ency of such proceedings shall be refunded by the insurer to  
156 the person entitled thereto.

157 (13) Every insurance company shall on or before the  
158 first day of March of each calendar year file in the office of  
159 the commissioner a classification schedule of premium receipts  
160 and losses paid on risks in the state of West Virginia during  
161 the preceding calendar year. In addition to such reports  
162 the said commissioner may require such companies to file  
163 such classification schedules for a number of years, not ex-  
164 ceeding five years prior to the taking effect of this act. If,  
165 at any time, it shall appear to the commissioner that the  
166 rates charged for fire insurance in this state are excessive or

167 unreasonable, in that the results of business of stock fire in-  
168 surance companies in this state during the five years next  
169 preceding the year in which investigation is made as indi-  
170 cated by the classification schedules filed as provided for  
171 herein, show an aggregate underwriting profit in excess of a  
172 reasonable amount upon any class or classes of risks, then the  
173 said commissioner shall have power to order a reduction in  
174 rates upon such class or classes of risks. If in the same  
175 manner it appears that the rates upon any class or classes of  
176 risks are insufficient to show a reasonable underwriting prof-  
177 it, then the said commissioner shall increase the rates upon  
178 such class or classes of risks so as to produce a reasonable  
179 profit. In determining the question of a reasonable under-  
180 writing profit the commissioner as a protection to policy-  
181 holders shall give proper and reasonable consideration to the  
182 conflagration liability within and without this state. No such  
183 change in rates shall be ordered by the commissioner except  
184 after a hearing upon due notice served upon the insurance  
185 companies and rating bureaus which may be affected by such  
186 order. In addition to said insurance companies and rating  
187 bureaus any other persons or corporations having an interest  
188 in the subject matter may become parties to said hearing.  
189 Any action of the commissioner in this connection shall be  
190 subject to summary court reviews as provided in the pre-  
191 ceding paragraph.

192 (14) The commissioner may, after due notice and hear-  
193 ing, upon complaint or upon his own motion, make an order  
194 disapproving any such agreement. No such agreement shall  
195 be in force, nor shall any rights be based thereon, after ser-  
196 vice of a copy of such order upon each of the parties to such  
197 agreement, and upon each bureau with which such agreement  
198 is required to be filed. Service may be made by mail and  
199 shall be completed upon the expiration of a reasonable time  
200 for transmission fixed in such order. Any person in interest  
201 being dissatisfied with the order or refusal to make an order  
202 by the commissioner may, within thirty days from the issu-  
203 ance of such order or refusal and notice thereof, commence  
204 suit against the commissioner as defendant to review any  
205 such action, either in making or refusing to make any such  
206 order and such cause shall thereupon proceed as herein pro-  
207 vided in paragraph thirteen.

208 (15) This act shall not apply to farmer mutual insurance  
209 companies organized under the laws of this state; nor to the  
210 rolling stock of railroad corporations, or property in transit  
211 while in the possession of railroad companies or other com-  
212 mon carriers, nor to the property of such common carriers  
213 used or employed by them in their business of carrying  
214 freight, merchandise or passengers, nor properties protected  
215 by automatic sprinklers, *provided, however*, any company, as-  
216 sociation, or person licensed under the insurance laws of this  
217 state may at their request be entitled to receive any or all of  
218 the rates, bulletins, and other information published or pre-  
219 pared by such rate making association, on payment of such  
220 reasonable charges as may be made.

221 *Provided, further*, it shall be obligatory upon any ad-  
222 juster, adjusting bureau or corporation making adjustments  
223 on any property or properties, insured in this state by more  
224 than one company, to make adjustments for any or all com-  
225 panies making request for same, charging each company mak-  
226 ing such request a *pro rata* amount of the expenses incurred  
227 in making such adjustment.

228 (16) Any violation of the provisions of this act by any  
229 fire insurance company or other insurer, or by any rate-  
230 making bureau, adjusting bureau, or officer or agent of  
231 either shall be a misdemeanor and on conviction shall be pun-  
232 ishable by a fine of not less than twenty-five dollars nor more  
233 than two hundred dollars for each such violation, and in the  
234 event any insurer, insurance company, individual or rating  
235 bureau shall be found guilty of violation of the provisions  
236 of this act and subjected to penalty herein provided and the  
237 same shall not be paid within thirty days after final judg-  
238 ment, the commissioner may, in his discretion, revoke the li-  
239 cense of such insurer or insurance company and suspend the  
240 certificate of authority of such person or rating bureau until  
241 such fine has been paid. All acts and parts of acts incon-  
242 sistent herewith are hereby repealed.

## CHAPTER 29

(Senate Bill No. 5—By Mr. Hallanan)

AN ACT to amend chapter fifty-five of the one thousand nine hundred and twenty-seven acts of the West Virginia legislature known as the probation system, by adding thereto a new section providing for compensation to the probation officer in counties having more than one hundred thousand population.

[Passed January 29, 1929; in effect from passage. Vetoed by Governor and passed over veto February 7, 1929; in effect from passage.]

SEC.

5. Appointment of probation officers by court or judge in counties		having population of one hundred thousand or more; salary.
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*Be it enacted by the Legislature of West Virginia:*

That chapter fifty-five of the one thousand nine hundred and twenty-seven acts of the West Virginia legislature be, and the same is hereby amended by adding thereto section five, in words and figures following:

Section 5. In all counties having a population of one hundred thousand or more wherein there has been or may hereafter be created a court of limited jurisdiction vested with criminal jurisdiction throughout the county, said court or the judge thereof may appoint some person other than the sheriff of said county as probation officer, and such person so appointed as probation officer shall serve as such during the pleasure of the judge of said court so appointing him, and said probation officer shall be paid a salary of not more than two hundred and fifty dollars per month to be fixed by said judge, payable out of the county treasury of such county.

All acts and parts of acts inconsistent herewith are hereby repealed.

## CHAPTER 30

(Senate Bill No. 167—By Mr. Hugus)

AN ACT to amend and re-enact sections one, two, three, five, and six of chapter sixty of the acts of the legislature of one thousand nine hundred and twenty-three, relating to county welfare boards.

[Passed March 7, 1929; in effect ninety days from passage. Approved by the Governor.]

### SEC.

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. County welfare boards; number and appointment of members.</li> <li>2. Duties of board; secretary, salary; may be juvenile probation officer.</li> <li>3. Members of board, terms, meetings;</li> </ol> | <ol style="list-style-type: none"> <li>5. Vacancies on board, how filled. Provisions concerning present county welfare secretaries.</li> <li>6. Powers and duties of secretaries as juvenile probation officers.</li> </ol> |
|--|---|

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, three, five, and six of chapter sixty of the acts of the legislature of one thousand nine hundred and twenty-three, relating to county welfare boards, be amended, re-enacted and added to so as to read as follows:

Section 1. There is hereby created for each of the counties 2 of the state a county welfare board which shall consist of not 3 less than six nor more than twelve members, of whom the presi- 4 dent of the county court and the judge having juvenile juris- 5 diction, when a resident of the county, shall be *ex-officio* mem- 6 bers, and the other members shall be residents of the county. 7 They shall be appointed by the county court from a list of 8 eligible citizens from the various districts of the county sub- 9 mitted by the state board of children's guardians and all mem- 10 bers shall serve without pay. At least three members of said 11 board shall be women.

Sec. 2. The duties of the board shall be to advise and co- 2 operate with and assist the state board of children's guardians 3 in its work in the county and to make such visitations and re- 4 ports as the state board of children's guardians may request; 5 to act in a general advisory capacity to the county and municipi- 6 pal authorities in dealing with questions of dependency and 7 delinquency, distribution of poor funds and social conditions 8 generally. The county board may appoint a secretary properly 9 qualified with education, training, and experience, subject to

10 the approval of the state board of children's guardians, which  
11 welfare secretary shall be secretary of the board and receive  
12 such salary as the board shall determine with the approval of  
13 the county court. The salary of the secretary may be paid, not  
14 more than one-half by the state board of children's guardians  
15 and the remainder by the county. Said secretary may, and  
16 when deemed advisable by the said county court and judge  
17 having juvenile jurisdiction should be the county juvenile pro-  
18 bation officer.

Sec. 3. The members of the county welfare board shall be  
2 appointed at the first regular meeting after the list of eligible  
3 citizens has been submitted to them. The members first ap-  
4 pointed shall hold office for one and two years, the term of each  
5 being designated at the time of his or her appointment. All  
6 subsequent appointments shall be for the term of two years.  
7 The board shall meet to organize the second Thursday after  
8 appointments have been made. Subsequent regular meetings  
9 of the board shall be held monthly at such time and place as  
10 the board may designate. Any vacancy on the board shall be  
11 filled by the county court from the list of eligible citizens sub-  
12 mitted by the state board of children's guardians.

Sec. 5. In counties where county welfare secretaries have  
2 already been appointed by the judges having juvenile jurisdic-  
3 tion, said secretaries may continue to hold office, *provided*,  
4 the county welfare board, after appointment, shall approve their  
5 continuation in office. In case the county welfare board shall  
6 not approve, said county welfare secretaries shall continue to  
7 serve six months, when they shall be replaced.

Sec. 6. Secretaries appointed under this act shall, when so  
2 directed by the judge having juvenile jurisdiction, perform the  
3 duties of juvenile probation officers, aid in the investigation  
4 and supervision of county allowance to mothers under the  
5 mother's pension law, and shall cooperate with the state labor  
6 inspectors in furtherance of their duties.

## CHAPTER 31

(Senate Bill No. 28—By Mr. West)

AN ACT to amend and re-enact section twenty-three of chapter one hundred and sixteen of the code of West Virginia, relating to the payment for meals of petit jurors serving on felony cases.

[Passed February 5, 1920; in effect ninety days from passage. Approved by the Governor.]

SEC.

23. Petit jurors; per diem; mileage; per diem and expenses for meals

while serving on felony cases; taxation of costs; list of jury fees by clerk of circuit court.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-three of chapter one hundred and sixteen of the code of West Virginia, be amended and re-enacted so as to read as follows:

Section 23. Any person summoned as aforesaid, by virtue of a *venire facias* or otherwise, to serve as a petit juror, and actually attending upon the court, or attending at the court house, at the time summoned, whether he be called to serve on a jury or not, shall for each day he so attends, be entitled to receive not less than two dollars and not more than three dollars and fifty cents, to be fixed by the court, and the same mileage allowed to witnesses, to be paid out of the county treasury. The judge of the court shall fix the compensation for grand and petit jurors, as provided for above, by an order entered of record in said court. *Provided*, that for any day that any person shall be sworn to serve as a juror on a case of felony he shall, for that day, and any other days he may so serve on such case, be paid three dollars and fifty cents out of the state treasury, that for each day he shall not actually attend at the court house he shall receive nothing, and shall be allowed mileage but once during the term; it is *provided, further, however*, that when a jury on a case of felony shall be placed in the custody of the sheriff, he shall provide for and furnish such jury with regular meals at a reasonable cost not to exceed two dollars a day, while they are in his custody, and such meals shall be paid for out of the state treasury as provided for above, for jury service in felony cases. There shall be taxed in the costs against any person against whom a judgment or the verdict of a jury may be rendered in a case of misdemeanor, and against any

26 person against whom judgment on the verdict of a jury may  
 27 be rendered in a civil action, and against any person on whose  
 28 motion the verdict of a jury is set aside and a new trial granted,  
 29 eight dollars for jury costs, which when collected from the  
 30 party, shall be paid into the county treasury. All money so  
 31 received by the clerk shall be forthwith paid by him to the  
 32 sheriff, and the clerk and his surety shall be liable therefor  
 33 on his official bond, as for other money coming into his hands  
 34 by virtue of his office.

35 The clerk of the circuit court of each county in this state  
 36 shall annually certify to the county court a list of all money  
 37 so paid to him, and by him paid to the sheriff, and in addition  
 38 thereto, a correct list of all the cases, in which jury fees have  
 39 been taxed, and are, at the time, properly due and payable in  
 40 the county treasury, and the sheriff of the county shall be held  
 41 to account in his annual settlement for all such moneys col-  
 42 lected by him.

## CHAPTER 32

(Senate Bill No. 219—By Mr. Smith, of Marion)

AN ACT to amend and re-enact sections one and three of chapter one hundred and sixteen of Barnes' code of one thousand nine hundred and twenty-three, as amended by chapter sixty-two of acts of the legislature of West Virginia of nineteen hundred and twenty-seven, relating to juries.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

### SEC.

1. Who shall be liable to serve as jurors.
3. Jury commissioners, qualifications, appointment, term and removal; vacancies; to keep record of pro-

ceedings; compensation; preparation of list of jurors, number and qualification; oath of jury commissioners; for what courts appointed.

*Be it enacted by the Legislature of West Virginia:*

That sections one and three of chapter one hundred and sixteen of Barnes' code of one thousand nine hundred and twenty-three, as amended by chapter sixty-two, acts of the legislature of West Virginia of nineteen hundred and twenty-seven., relating to juries be amended and re-enacted so as to read as follows:

Section 1. All male persons who are twenty-one years of age, and not over sixty-five and who are citizens of this state, shall be liable to serve as jurors, except as hereinafter provided.

Sec. 3. There shall be two jury commissioners of the circuit court of each county. They shall be of opposite politics, citizens of good standing, residents in the county for which they are appointed and well known members of the principal political parties thereof, but the chairman of any political party shall be ineligible to appointment. They shall be appointed by the circuit court, or the judge thereof in vacation, of their respective counties. Their term of office shall be for four years, and shall commence on the first day of June next after their appointment, but the two shall be appointed, one for two years and the other for four years, but no jury commissioner shall be eligible to reappointment after he shall have served four years. They may be removed from office by the court or judge having the power of appointment, for official misconduct, incompetency, habitual drunkenness, neglect of duty or gross immorality. Vacancies caused by death, resignation or otherwise, shall be filled for the unexpired term in the same manner as the original appointments. The jury commissioners shall keep in a well bound book a record of the proceedings to be preserved by the clerk of the circuit court in his office. They shall receive five dollars per day for each day necessarily employed as such jury commissioners, payable out of the county treasury, upon the order of the circuit court. The first appointment of said commissioners shall be made within thirty days after this act takes effect. The jury commissioners of each county shall, annually, at the levy term of the county court thereof, and at any other time when required by the circuit court of such county, without reference to party affiliations, prepare a list of such inhabitants of the county, not exempted as aforesaid, as they shall think well qualified to serve as jurors, being persons of sound judgment and free from legal exception, which list shall include not less than two hundred nor more than one thousand persons, but the circuit court of the county may, at any time, direct said commissioners to prepare a list of such inhabitants, and not exempt as aforesaid, being any number between two hundred and one thousand, which, in the discretion of the court it may deem proper; *provided, however,* that in counties having a population of fifty

39 thousand or more, the jury commissioners shall be required to  
40 have at least eight hundred names in such list. But the name  
41 of no person shall be put on such list who shall have been drawn  
42 and actually served as a petit juror within a period of two  
43 years, and if by mistake a juror should be put on such list who  
44 shall have been drawn and actually served as a petit juror  
45 within a period of two years, he or they shall be ineligible to  
46 serve as a petit juror for two years thereafter. And no person  
47 who may have requested the jury commissioners or either of  
48 them, by himself, or another person, to have his name placed  
49 on such list; *provided*, if in any county wherein there is a  
50 criminal or intermediate court or court of common pleas, service  
51 on a petit jury in any such court shall not exempt a juror  
52 from jury service in the circuit court, nor *vice versa*. Before  
53 entering upon the discharge of their duties the jury commis-  
54 sioner shall take and subscribe an oath to the following effect:

55 "State of West Virginia,  
56 County of ....., to-wit:

57 I, A..... B....., do solemnly swear that I  
58 will support the constitution of the United States and the con-  
59 stitution of this state and will faithfully discharge the duties  
60 of jury commissioner to the best of my skill and judgment, and  
61 that I will not place any person upon the jury list in violation  
62 of law, or out of fear, favor or affection."

63 The said oath shall be taken before the clerk of the circuit  
64 court, who is hereby authorized to administer the same, and  
65 filed and preserved by him in his office. There shall be two  
66 jury commissioners for every court of limited jurisdiction,  
67 who shall be appointed by said courts or judges thereof in  
68 vacation, respectively, and whose terms of office and compensa-  
69 tion shall be the same as jury commissioners of the circuit  
70 courts. The same powers conferred and duties imposed by  
71 this chapter upon the circuit courts, or the judges thereof in  
72 vacation, and upon the clerks and jury commissioners of the  
73 circuit courts, are hereby conferred and imposed upon every  
74 court of limited jurisdiction and the judges thereof respectively,  
75 and upon the clerks and jury commissioners of said courts of  
76 limited jurisdiction.

## CHAPTER 33

(House Bill No. 109—By Mr. Bennett)

AN ACT to amend and re-enact section eighty-two of chapter forty-five of Barnes' code of one thousand nine hundred and twenty-three, relating to the approval, classification, and rating of junior high schools, senior high schools, and the secondary school departments of state-supported institutions; and state aid for said schools and departments.

[Passed February 13, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec.

82. Approval and classification of | state aid for, amount and how  
junior and senior high schools; | disbursed.

*Be it enacted by the Legislature of West Virginia:*

That section eighty-two of chapter forty-five of Barnes code of one thousand nine hundred and twenty-three, relating to the approval, classification, and rating of junior high schools, senior high schools, and the secondary school departments of state-supported institutions, and state aid for said schools and departments be amended and re-enacted so as to read as follows:

Section 82. (a) All junior high schools and senior high schools which are a part of the free public school system of the state and all secondary school departments of state-supported institutions shall be approved, classified, and rated by the state superintendent of free schools according to the rules and regulations prescribed by the state board of education.

(b) To assist in the maintenance of all junior high schools, senior high schools and secondary school departments of state-supported institutions as have been properly approved, classified and rated by the state superintendent of free schools according to the provisions of division (a) of this section, the following amounts from appropriations to be made for that purpose shall be paid annually out of the general school fund of the state:

(1) To each senior high school which has been approved, classified and rated to include the school work of the twelfth grade or year, the sum of eight hundred dollars.

(2) To each senior high school which has been approved, classified, and rated to include the school work of the eleventh grade or year but not the school work of the twelfth grade or 21 year, the sum of six hundred dollars.

22 (3) To each senior high school which has been approved,  
23 classified, and rated to include the school work of the tenth  
24 grade or year but not the school work of the eleventh and  
25 twelfth grades or years, the sum of four hundred dollars.

26 (4) To each junior high school which has been approved,  
27 classified, and rated according to a plan of organization pre-  
28 scribed by the rules and regulations of the state board of edu-  
29 cation, the sum of six hundred dollars.

30 (c) The state superintendent of free schools shall not later  
31 than the first day of April, annually, notify the county super-  
32 intendent of schools of each county as to the amount due  
33 under the provisions of this section to each of the junior high  
34 schools, senior high schools, and secondary school departments  
35 of state-supported institutions in his county. The state super-  
36 intendent of free schools shall issue his warrants upon the  
37 state auditor, payable to the order of the sheriffs of the coun-  
38 ties in which said schools are located, for the amount due  
39 each school which shall be payable on the first day of April.

## CHAPTER 34

(House Bill No. 35—By Mr. Hill)

AN ACT to amend and re-enact sections one, two and three of chapter ten of the acts of the legislature of West Virginia, regular session nineteen hundred twenty-seven, to provide state aid to education in certain courses of study of state students in schools outside of the state for whom no such courses are provided in the educational institutions of the state and the conditions under which such state aid may be granted.

[Passed February 12, 1929; in effect ninety days from passage. Approved by the Governor.]

<p>SEC. 1. State aid to West Virginia students outside state; when granted.</p>	<p>2. Rules and regulations governing. 3. Appropriation for, how disbursed. 4. Inconsistent acts repealed.</p>
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*Be it enacted by the Legislature of West Virginia:*

That sections one, two and three of chapter ten, acts of the legislature of West Virginia, regular session, nineteen hundred twenty-seven to provide state aid to education in certain courses of study of students in schools outside of the state for whom no

such courses are provided in the educational institutions of the state, and the conditions under which such aid may be granted, be amended and re-enacted so as to read as follows:

Section 1. All *bona fide* residents of the State of West Virginia who have been residents of the state for five years, and who have completed courses of study equivalent to two years of college grade preparatory to the special courses to be pursued outside of the state, or who have otherwise qualified to enter such courses, and who are now pursuing or may hereafter pursue, courses of study in educational institutions outside of the state of West Virginia the same as those taught in the West Virginia University, or other West Virginia schools, and, because of section eight of article twelve of the constitution of West Virginia, cannot pursue such courses in the West Virginia University, or other state schools, and, no such courses are taught in state supported educational institutions provided for them, shall have their annual tuition and fees paid by the state to the amount paid by a non-resident student of the state university, or other state supported school, over and above the amount of annual tuition and fees paid by a resident student of the state university or other school, said tuition cost to be ascertained by the state board of control for the next school year preceding the passage of this bill.

Sec. 2. The advisory council to the state board of education and the state board of education acting jointly shall prescribe rules and regulations governing the granting of aid under this act.

Sec. 3. The legislature of West Virginia shall appropriate funds to carry out the provisions of this act, said funds to be disbursed by the state board of control upon requisition of the state superintendent of free schools.

All acts or parts of acts inconsistent with this act are hereby repealed.

## CHAPTER 35

(House Bill No. 36—By Mr. Hill)

AN ACT to amend and re-enact section sixty-seven, chapter two of the acts of the legislature of West Virginia, one thousand nine hundred and nineteen, regular session, by adding thereto section sixty-seven-a relating to schools for fewer than ten pupils.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec. 67. Schools for negro pupils; how provided; funds for. | 67 (a). Salaries of negro teachers.

*Be it enacted by the Legislature of West Virginia:*

That section sixty-seven of chapter two of the acts of the legislature of West Virginia, regular session, one thousand nine hundred and nineteen, be amended and re-enacted, and that section sixty-seven-a be added thereto, both to read as follows:

Sec. 67. White and negro pupils shall not be taught in the same school, or in the same building, but it shall be the duty of the board of education to establish one free school, or more if necessary, in any sub-district wherein there are ten or more negro persons of school age and, if practicable, in any district wherein there are fewer than ten. For the purpose of carrying out this section the board of education may establish schools composed of pupils from adjacent districts in the manner provided in section fifty-nine of this chapter for white pupils.

Whenever, in any school district, the benefit of a free school education is not secured to the negro children of school age residing therein in the manner mentioned in this section, the funds applicable to the support of the free schools in such district shall be divided by the board of education in the proportion which the number of negro children bear to the number of white children therein, according to the last enumeration made for school purposes, and the share of the former shall be set apart for the education of negro persons of school age in such districts, and be applied for the purpose from time to time in such way as the board of education may deem best. Any board of education failing to comply with this section may be compelled to do so by mandamus.

Sec. 67. (a) Salaries of negro teachers shall be the same

2 as the salaries of other teachers in the same district, inde-  
3 pendent district, city or town, with the same training and  
4 experience, and holding similar credentials. Any board of  
5 education failing to comply with the provisions of this act  
6 may be compelled to do so by mandamus.

7 All acts or parts of acts inconsistent with this act are  
8 hereby repealed.

## CHAPTER 36

(House Bill No. 363—By Mr. Hogg)

AN ACT conferring jurisdiction upon courts of chancery to set  
aside clouds and to determine questions of title with respect  
to real property, or interests therein, or leasehold estates in  
or to real property, without requiring plaintiff to allege or  
prove actual possession, the same to be an additional section  
to chapter one hundred and twenty-five of the code of West  
Virginia relating to rules and pleadings.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the  
Governor.]

Sec.

1. Removing cloud on title to real estate.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Courts of chancery shall have jurisdiction at the  
2 suit of the owner of real property, or any part thereof, or any  
3 estate, right, or interest therein, or of any leasehold estate in  
4 or to real property, or any part thereof, or any estate, right,  
5 or interest therein, to set aside any cloud on the title thereof  
6 and to determine questions of title with respect thereto,  
7 without requiring such owner to allege or prove actual pos-  
8 session of the same.

## CHAPTER 37

(Senate Bill No. 41—By Mr. Hallanan)

AN ACT to provide for the releasing of infants' claims for personal injuries and making binding and conclusive settlements made in accordance with this act, but not making such mode exclusive of modes now recognized by law.

[Passed February 20, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec.

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|--|--|
| <p>1. Guardian of injured infant may file petition in circuit court for settlement of damages for personal</p> | <p>injuries to infant; procedure on; form of release; other modes of settlement permitted.</p> |
|--|--|

*Be it enacted by the Legislature of West Virginia:*

Section 1. In any case where an infant is injured by the negligence or act of another, the legal guardian of said infant may negotiate with the person or corporation inflicting said injury for the settlement of the damages to said infant. But the legal guardian shall, when proceeding under this act, before attempting final settlement, file his petition before the circuit court of the county, or judge thereof in vacation, in which he was appointed for permission to settle said claim, in which petition he shall state the name and age of his ward, the nature and character of the injury, and the facts relied upon by him to induce the court to approve his tentative settlement. The court, or judge thereof in vacation, shall appoint a guardian *ad litem* for the ward who shall answer the said petition. Upon the hearing of the petition, the court, or judge thereof in vacation, may grant or refuse the petition by a proper order, as it may seem judicious and proper. And in case such judge do grant the petition he may include in such order permission to the guardian to pay to such attorney as may be indicated by such guardian such amount in connection with the settlement of such claim as in the discretion of such judge is reasonable and proper, taking into consideration the amount to be paid, the necessities of the infant, the seriousness of the injury inflicted upon him, the probability of recovery in case of suit, the difficulties involved in effecting the settlement, and such other matters as may properly have a bearing on the reasonable compensation of such attorney. In case the court, or judge thereof in vacation, approves the prayer of the petition, the guardian may be authorized to settle and receive the amount of the tenta-

30 tive settlement and to execute to the *tort feasor* a release there-  
 31 for. But before so doing he shall execute a bond in an amount  
 32 equal to the approved settlement, with surety or sureties ap-  
 33 proved by the clerk of said court, conditioned to account for  
 34 and pay over the amount of the approved settlement as required  
 35 by law. Said bond shall be filed and recorded by said clerk.

36 The release to the *tort feasor* may be in form as follows:

37 I, ....., a guardian  
 38 of....., in consideration of  
 39 the sum of \$.....and under authority of an order  
 40 of the circuit court of.....county, made and entered  
 41 on the.....day of....., 19....., do hereby  
 42 release.....from all claims and  
 43 demands on account of injuries inflicted on my said ward by  
 44 said .....on the.....day  
 45 of....., 19....., at....., West  
 46 Virginia.

47

48

Guardian of

49 After receiving such release from the guardian of an infant  
 50 who has been injured through the negligence of any person or  
 51 corporation, its agents and servants, the said *tort feasor* shall  
 52 be forever acquit of any damages to said infant on account of  
 53 said injuries.

53-a Nothing in this act contained shall be construed as prevent-  
 54 ing any *tort feasor* from settling any such claims in any modes  
 55 now recognized by law.

## CHAPTER 38

(Senate Bill No. 70—By Mr. Watkins)

AN ACT to amend and re-enact section fourteen and to repeal  
 section fifteen of chapter twenty-seven of the acts of the legis-  
 lature of one thousand nine hundred and seventeen, being  
 sections fourteen and fifteen of chapter eighty-six of the Barnes  
 code of one thousand nine hundred and twenty-three of West  
 Virginia, relating to estates of supposed decedents and limita-  
 tions for claiming such estates.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

14. Proof as to presumption of death and estate of supposed decedent | or absentee.  
15. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That sections fourteen and fifteen of the acts of one thousand nine hundred and seventeen, being sections fourteen and fifteen of Barnes one thousand nine hundred and twenty-three code of West Virginia, relating to the estates of persons presumed in law to be dead, on account of their absence from the place of their domicile, be amended as follows:

Section 14. If such supposed decedent, or absentee, shall not appear or satisfactory evidence that he is alive shall not be offered, on or before such date, the circuit court shall hear proof in relation to the presumption of his death and as to the estate and the persons entitled thereto, and if upon such hearing the court be satisfied of the rights of the persons claiming such estate and if it be found and adjudicated by the court that no intelligence from or concerning the absentee has been received for a period of forty years or more next preceding the date of such adjudication, the court may enter a decree requiring the absentee, his heirs and assigns, to appear in said suit within one year from the date of the decree and set up his or their claim to said estate.

If it be found and adjudicated that such absence and want of intelligence has continued for a period of less than forty years and at least twenty years next preceding the date of such adjudication, the absentee, his heirs and assigns, shall be required by said decree to appear and set up his or their claim within three years from date thereof; and if it be found and adjudicated that such absence and want of intelligence has continued for a period of less than twenty years and at least seven years next preceding the date of such adjudication, the absentee, his heirs and assigns, shall be required by said decree to appear and set up his or their claim within five years from the date of such adjudication. After the expiration of the time within which the absentee, his heirs and assigns, are required by said decree to appear and set up his or their claim as aforesaid, the absentee and all persons claiming under him shall be forever barred from asserting any right, title or interest in and to such estate, and thereafter the court shall by further

31 decree order that said estate be vested in, paid over and deliv-  
 32 ered to those who would have been entitled thereto if the ab-  
 33 sentee had died intestate in this state.

Sec. 15. The aforesaid section fifteen of chapter twenty-seven  
 2 of the acts of the legislature one thousand nine hundred and  
 3 seventeen, and all other acts and parts of acts inconsistent here-  
 4 with are hereby repealed.

## CHAPTER 39

(Senate Bill No. 210—By Mr. Watkins)

AN ACT to amend and re-enact chapter eighty-one of the acts of  
 the legislature of one thousand nine hundred and twenty-five,  
 relating to judgments by motion, and providing that plain-  
 tiff's affidavit shall be legal evidence.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the  
 Governor.]

Sec. 6. Procedure upon motion by judg- | legal evidence of claim; dock-  
 ment; affidavit of plaintiff to be | eting.

*Be it enacted by the Legislature of West Virginia:*

That chapter eighty-one of the acts of the legislature for the year  
 one thousand nine hundred and twenty-five be amended and re-  
 enacted so as to read as follows:

Section 6. Any person entitled to recover money by action  
 2 on any contract may, on motion before any court which would  
 3 have jurisdiction in an action. otherwise than under the second  
 4 section of the one hundred and twenty-third chapter of this  
 5 code, obtain judgment for such money after twenty days' no-  
 6 tice, which notice shall be returned to the clerk's office of such  
 7 court fifteen days before the motion is heard. Such motion  
 8 may be commenced and matured during the term of said court  
 9 and may be heard at the same term; *provided*, said term con-  
 10 tinues for a period of twenty days after the service of said no-  
 11 tice. However, if the court be not in session on the return  
 12 day as set out in said notice, and the term of court be not ad-  
 13 journed, the said motion shall be considered continued until the  
 14 next court day of said term, and if said term be adjourned,  
 15 then said motion shall stand continued until the first day of

16 the next regular term of said court. In any such motion, if  
17 the plaintiff shall file with his notice, and shall serve upon the  
18 defendant at the same time and in the same manner as the no-  
19 tice is served, an affidavit by himself, or his agent, stating dis-  
20 tinctly the several items of the plaintiff's claim, and that there  
21 is, as the affiant verily believes, due and unpaid from the de-  
22 fendant to the plaintiff upon the demand or demands stated in  
23 the notice, including principal and interest, after deducting  
24 all payments, credits and sets-off made by the defendant, or to  
25 which he is entitled, a sum certain to be named in the affidavit,  
26 no plea shall be filed in the case unless the defendant shall file  
27 with his plea the affidavit of himself, or his agent, that there is  
28 not, as the affiant verily believes, any sum due by the defendant  
29 to the plaintiff upon the demand or demands stated in the plain-  
30 tiff's notice, or stating a sum certain less than that stated in  
31 the affidavit filed by the plaintiff, which, as the defendant, or  
32 his agent, verily believes, is all that is due from the defendant  
33 to the plaintiff upon the demand or demands stated in the plain-  
34 tiff's notice. If such plea and affidavit be filed by the defend-  
35 ant and it be admitted in such affidavit that any such sum is  
36 due from the defendant to the plaintiff, judgment may be taken  
37 by the plaintiff for the sum so admitted to be due, with in-  
38 terest thereon from the date of the plaintiff's affidavit until  
39 paid, and the case tried as to the residue. And the affidavit of  
40 the plaintiff hereinbefore mentioned shall be legal evidence of  
41 plaintiff's claim.

42 The clerk shall docket, upon the return day thereof, any mo-  
43 tion under this section filed after the commencement of the  
44 term. Such motion, as well as motions under this section, which  
45 are docketed under the first section of chapter one hundred  
46 and thirty-one of this code shall not be discontinued by reason  
47 of no order docketing the same upon the return day thereof,  
48 or of no order of continuance being entered in it from one day  
49 to another or from term to term.

50 All acts and parts of acts inconsistent herewith are hereby  
51 repealed.

## CHAPTER 40

(Senate Bill No. 218—By Mr. Smith of Marion)

AN ACT amending and re-enacting section eleven of chapter one hundred and twenty-nine of Barnes' code of one thousand nine hundred and twenty-three, being chapter seventy-four of the acts of the legislature of one thousand nine hundred and fifteen, relating to the proof of debts in courts and before commissioners.

[Passed March 8, 1920; in effect ninety days from passage. Approved by the Governor.]

<p>SEC. 11. Proceedings by creditor to establish debt before commissioner in</p>		<p>chancery under decree of reference.</p>
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*Be it enacted by the Legislature of West Virginia:*

That section eleven of chapter one hundred and twenty-nine of Barnes' code one thousand nine hundred and twenty three, being chapter seventy-four of the acts of the legislature one thousand nine hundred and fifteen, be amended and re-enacted so as to read as follows:

Section 11. Every creditor, in any chancery cause pending 2 in any court before a commissioner in chancery under a decree 3 of reference in said cause, or in any proceedings before a commissioner of accounts of any county, under the thirteenth section of chapter eighty-seven of said code, may establish his debt 6 or demand against the debtor, if it be for the recovery of money 7 due on contract, by filing before the commissioner with such 8 debt or demand, completely itemized where it is upon an account, the affidavit or affidavits of any person or persons competent and not disqualified by law (which affidavit or affidavits 11 shall affirmatively show in every case where the creditor is seeking to prove a debt or demand against a deceased debtor or his 13 estate) to testify as a witness or as witnesses before the commissioner about or concerning the debt or demand in question, 15 stating in such affidavit or affidavits every essential element 16 necessary to constitute proof of such debt or demand, the same 17 as though affiant or affiants had testified before the commissioner 18 as a witness or as witnesses in person; unless the debtor, his 19 personal representative, or any party, or creditor, or other person interested shall file before the commissioner a counter- 21 affidavit denying the correctness of debt or demand, as a whole 22 or in part, in which case the creditor presenting such debt or

23 demand shall be required to produce his witness or witnesses  
 24 before the commissioner, reasonable notice of which shall be  
 25 given in writing to the creditor or his attorney, and the taking  
 26 of the testimony relative to such debt or demand shall be pro-  
 27 ceeded with before the commissioner in like manner as if no  
 28 affidavit or affidavits had been filed. Any transcript of a judg-  
 29 ment or decree of a court or justice of this state, introduced in  
 30 evidence in any court or before such commissioner, shall *prima*  
 31 *facie* be presumed unpaid unless such judgment or decree ap-  
 32 pear to have been rendered more than ten years prior to the  
 33 time of such proof.

## CHAPTER 41

(House Bill No. 80—By Mr. Davis)

AN ACT to amend and re-enact section thirty-four of chapter one hundred and forty-five of Barnes' code of one thousand nine hundred and twenty-three, punishing the giving of checks, drafts or orders on any bank or other depository, wherein the drawer of such check, draft or order shall not have sufficient funds or credit for payment of the same.

[Passed March 2, 1929; in effect ninety days from passage. Approved by the Governor.]

<p>SEC. 34. Uttering fraudulent check; penalty for; presumption of fraud; when does not arise; by officer or</p>	<p>agent of corporation; punishment; venue; when justices have jurisdiction; form of indictment.</p>
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*Be it enacted by the Legislature of West Virginia:*

That section thirty-four of chapter one hundred and forty-five of Barnes' code of one thousand nine hundred and twenty-three, be, and the same is hereby amended and re-enacted so as to read as follows:

Section 34. Any person who, with intent to defraud, shall  
 2 make, draw, issue, utter or deliver any check, draft or order  
 3 for the payment of money upon any bank, or other deposi-  
 4 tory, and thereby obtain from such other any credit, credit  
 5 on account, money, goods or other property or thing of value,

6 knowing at the time of such making, drawing, issuing, uttering  
7 or delivering that the maker or drawer thereof has not suf-  
8 ficient funds, in, or credit with such bank or other depository  
9 for the payment of such check, draft or order in full upon its  
10 presentment, shall be guilty of a misdemeanor, if the amount  
11 of such check, draft or order be under twenty dollars, and  
12 upon conviction thereof be confined in the county jail not less  
12-a than five nor more than sixty days or fined not less than one  
13 hundred dollars or by both fine and imprisonment; and if the  
14 amount of such check, draft or order be twenty dollars or over,  
15 he shall be guilty of a felony and upon conviction therefor  
16 shall be confined in the penitentiary not less than one nor  
17 more than five years and be fined not more than one thousand  
18 dollars. The making, drawing, issuing, uttering or delivering  
19 of a check, draft or order upon such bank, or other deposi-  
20 tory, by any person knowing that there is not sufficient  
21 funds or credit in such bank or depository from which the  
22 same can be paid on presentment shall, as against the drawer,  
23 be *prima facie* evidence of knowledge of insufficiency of funds  
24 or lack of credit and of intent to defraud; *provided, however,*  
25 that if such check, draft or order be paid at any time previ-  
26 ous to the trial or examination of such person before a justice  
27 of the peace, or before indictment of such person by a grand  
28 jury, then no presumption of knowledge of insufficiency  
29 of funds, or lack of credit and of intent to defraud shall  
30-31 arise.

32 The making, drawing, issuing, uttering or delivery of any  
33 such check, draft or order, for or on behalf of any corpora-  
34 tion or in its name by any officer or agent of such corpora-  
35 tion, shall subject such officer or agent to the penalties of this  
36 act to the same extent as though such check, draft, or order  
37 was his own personal act, when such agent or officer knows  
38 that such corporation does not have sufficient funds or credit  
39 with such bank or other depository from which such check,  
40 draft or order can legally be paid upon presentment.

41 Such person, officer or agent, shall be prosecuted in the  
42 county in which he makes, draws, issues or delivers such  
43 check. Justices of the peace shall have jurisdiction to try any  
44 misdemeanor charge hereunder. The word "credit" as used  
45 herein shall be construed to mean an arrangement or under-  
46 standing with the bank or depository for the payment of such

47 check, draft or order. The following form of indictment shall  
48 be deemed sufficient.

49 State of West Virginia,

50 \_\_\_\_\_ County, ss:

51 In the \_\_\_\_\_ court of said county:

52 The grand jurors of the State of West Virginia, in and for  
53 the county of \_\_\_\_\_ upon their oaths present  
54 that \_\_\_\_\_ within one year last past, in the  
55 county aforesaid did unlawfully and feloniously (if for felony,  
56 or did unlawfully, if for misdemeanor) issue and deliver unto  
57 \_\_\_\_\_ his certain check (or draft) of the  
58 words and figures as follows; (here copy) when he, the said  
59 \_\_\_\_\_ knowingly did not have sufficient funds on deposit  
60 with the said bank of \_\_\_\_\_ with which to pay  
61 said check or draft against the peace and dignity of the state.

## CHAPTER 42

(Senate Bill No. 151—By Mr. Henshaw)

AN ACT making it unlawful to operate fraudulently any coin box  
telephone for the purpose of receiving telephone service.

[Passed March 7, 1929; in effect ninety days from passage. Approved by the  
Governor.]

SEC. 1. Penalty for unlawful use of slugs, | counterfeited coins, etc., in coin  
box telephones.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Any person who shall operate or cause to be  
2 operated, or who shall attempt to operate any coin box tele-  
3 phone designed to receive lawful coin of the United States of  
4 America in connection with the use or enjoyment of any tele-  
5 phone service by means of a slug or any false, counterfeited,  
6 mutilated, sweated or foreign coin or by any means, method,  
7 trick or device whatsoever, not lawfully authorized by the  
8 owner, lessee or licensee of such coin box telephone, shall be  
9 guilty of a misdemeanor, and upon conviction shall be pun-  
10 ished by imprisonment in the county jail not exceeding twelve  
11 months or by a fine not exceeding five hundred dollars, or both  
12 at the discretion of the court.

## CHAPTER 43

(Senate Bill No. 202—By Mr. Reitz)

AN ACT to prevent fraud and misrepresentation in the sale of liquid fuels, lubricating oils and similar products, to prevent adulteration of any such products and to provide penalties therefor.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

<p>SEC.</p> <p>1. Fraudulent sale of liquid fuels, etc., prohibited.</p> <p>2. Unlawful to sell liquid fuel, etc., from distributing equipment not showing name, etc., of manufacturer or distributor.</p> <p>3. Imitation designs or trade names prohibited.</p> <p>4. Substitution, mixing or adultera-</p>	<p>tion under trade name of manufacturer or distributor prohibited.</p> <p>5. Substitution of liquid fuels, etc., in distributing device displaying name of manufacturer or distributor prohibited.</p> <p>6. Trade name of lubricating oil to be shown.</p> <p>7. Penalties for violation of act.</p>
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*Be it enacted by the Legislature of West Virginia:*

Section 1. It shall be unlawful for any person, firm, or corporation, to store, sell, expose for sale, or offer for sale, any liquid fuels, lubricating oils, or other similar products, in any manner whatsoever, so as to deceive or tend to deceive the purchaser as to the nature, quality, and identity, of the product so sold or offered for sale.

Sec. 2. It shall be unlawful for any person, firm, or corporation to store, keep, expose for sale, offer for sale, or sell from any tank or container, or from any pump, or other distributing device or equipment, any other liquid fuels, lubricating oils, or other similar products, than those indicated by the name, trade name, symbol, sign, or other distinguishing mark or device, of the manufacturer or distributor, either as owner or licensee, appearing upon the tank, container, pump, or other distributing equipment, from which the same are sold, offered for sale or distributed.

Sec. 3. It shall be unlawful for any person, firm or corporation, to disguise or camouflage his or their own equipment, by imitating the design, symbol, or trade name, under which recognized brands of liquid fuels, lubricating oils, and similar products, are generally marketed.

Sec. 4. It shall be unlawful for any person, firm, or corporation, to expose for sale, offer for sale, or sell, under any trade mark or trade name in general use, any liquid fuels,

4 lubricating oils, or other like products, except those manufac-  
5 tured or distributed by the manufacturer or distributor market-  
6 ing liquid fuels, lubricating oils or other like products, under  
7 such trade mark or trade name, either as owner of said trade  
8 mark or licensee, or to substitute, mix, or adulterate the liquid  
9 fuels, lubricating oils, or other similar products, sold, offered for  
10 sale, or distributed, under such trade mark or trade name.

Sec. 5. It shall be unlawful for any person, firm or corpora-  
2 tion, to aid or assist any other person, firm or corporation in  
3 the violation of the provisions of this act, by depositing or  
4 delivering in any tank, receptacle, or other container, any other  
5 liquid fuels, lubricating oils, or like products, than those in-  
6 tended to be stored therein and distributed therefrom, as indi-  
7 cated by the name of the manufacturer or distributor or the  
8 trade mark or trade name of the product displayed on the con-  
9 tainer itself, or on the pump, or other distributing device used  
10 in connection therewith.

Sec. 6. There shall be firmly attached to or painted at or near  
2 the point of outlet from which lubricating oil is drawn or  
3 poured out for sale or delivery, a sign or label consisting of the  
4 word or words in letters not less than one inch in height, com-  
5 prising the brand or trade name of said lubricating oil, and,  
6 *provided*, that if any of said lubricating oil shall have no brand  
7 or trade name, the above required sign or label shall consist of  
8 the words, "Lubricating oil, no brand."

Sec. 7. Any person, firm, or corporation, or any officers,  
2 agent, or employee thereof, who shall violate any provision of  
3 this act, upon conviction, shall be punished by a fine, for the  
4 first offense, of not less than twenty-five dollars nor more than  
5 two hundred dollars; and for a second or any subsequent of-  
6 fense by a fine of not less than fifty dollars nor more than five  
7 hundred dollars; and in addition to the penalties aforesaid,  
8 upon conviction of second offense hereunder, the permit and  
9 license certificate provided for by section two, of chapter two,  
10 acts of the legislature, extraordinary session one thousand nine  
11 hundred and twenty-five theretofor issued to such violator  
12 shall be cancelled and taken up by the state tax commissioner;  
13 and no other certificate of license shall be issued to such persons  
14 by said state tax commissioner for a period of one year from the  
15 date of such cancellation.

16 All acts and parts of acts inconsistent herewith, are repealed.

## CHAPTER 44

(Com. Sub. for Senate Bill No. 215—By Mr. Hallanan)

AN ACT to amend and re-enact section sixteen of chapter one hundred and forty-nine of Barnes' West Virginia code of one thousand nine hundred and twenty-three, relating to work on the Sabbath.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.  
16. Penalty for laboring or hunting on | Sabbath day.

*Be it enacted by the Legislature of West Virginia:*

That section sixteen of chapter one hundred and forty-nine of the Barnes' West Virginia code of one thousand nine hundred and twenty-three, be amended and re-enacted so as to read as follows:

Section 16. If a person on a Sabbath day be found laboring at any trade or calling, or employ his minor children, apprentices, or servants in labor or other business, except in household or other work of necessity or charity, he shall be fined not more than fifteen dollars for each offense, and every day any such minor child, or servant, or apprentice is so employed, shall constitute a distinct offense; and any person found hunting, shooting, or carrying fire-arms on the Sabbath day, shall be guilty of a misdemeanor and fined not more than fifteen dollars.

## CHAPTER 45

(House Bill No. 16—By Mr. Mathews, of Kanawha)

AN ACT to repeal sections one, two, three, four, five, six, seven, eight, nine and ten of chapter one hundred forty-five of the code of West Virginia, relating to offenses against property and enact in lieu thereof, sections, one, two, three four and five.

[Passed February 13, 1929; in effect ninety days from passage. Approved by the Governor.]

## SEC.

- |  |   |
|--|---|
| <p>1. Malicious burning of dwelling or outbuilding; punishment.</p> <p>2. Malicious burning of buildings other than dwellings; punishment.</p> | <p>3. Malicious burning of other property; punishment.</p> <p>4. Burning to defraud insurer; punishment.</p> <p>5. Malicious attempt to burn buildings or property; punishment.</p> |
|--|---|

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, three, four, five, six, seven, eight, nine and ten of chapter one hundred forty-five, code of West Virginia relating to offenses against property, be and the same are hereby repealed, and the following sections enacted in their stead:

*Arson: Punishment*

Section 1. Any person who wilfully and maliciously sets  
 2 fire to or burns or causes to be burned or who aids, counsels  
 3 or procures the burning of any dwelling house; or any kitchen,  
 4 shop, barn, stable or other outhouse that is parcel thereof, or  
 5 belonging to or adjoining thereto, the property of himself or  
 6 of another, shall be guilty of arson, and upon conviction there-  
 7 of, be sentenced to the penitentiary for not less than two nor  
 8 more than twenty years.

*Burning Buildings, Etc. Other Than Dwellings*

Sec. 2. Any person who wilfully and maliciously sets fire  
 2 to or burns or causes to be burned or who aids, counsels or  
 3 procures the burning of any barn, stable or other building, the  
 4 property of himself or of another, not a parcel of a dwelling  
 5 house, or any shop, storehouse, warehouse, factory, mill or  
 6 other building, the property of himself or of another; or any  
 7 church, meeting house, court house, work house, school, jail or  
 8 other public building or any public bridge; shall, upon con-  
 9 viction thereof, be sentenced to the penitentiary for not less  
 10 than one nor more than ten years.

*Of Other Property*

Sec. 3. Any person who wilfully and maliciously sets fire  
 2 to or burns or causes to be burned or who aids, counsels or  
 3 procures the burning of any barrack, cock, crib, rick or stack  
 4 of hay, corn, wheat, oats, barley or other grain or vegetable  
 5 product of any kind; or any field of standing hay or grain of  
 6 any kind; or any pile of coal, wood or other fuel; or any pile

7 of planks, boards, posts, rails or other lumber; or any street  
8 car, railway car, boat, automobile or other motor vehicle; or  
9 any other personal property not herein specifically named  
10 (such property being of the value of twenty-five dollars or  
11 more and the property of another person); shall upon convic-  
12 tion thereof, be sentenced to the penitentiary for not less than  
13 one nor more than three years.

*Burning to Defraud Insurer*

Sec. 4. Any person who wilfully and with intent to injure  
2 or defraud the insurer sets fire to or burns or causes to be  
3 burned or who aids, counsels or procures the burning of any  
4 goods, wares, merchandise, or other chattels or personal prop-  
5 erty of any kind, the property of himself or of another, which  
6 shall at the time be insured by any person or corporation  
7 against loss or damage by fire; shall upon conviction thereof,  
8 be sentenced to the penitentiary for not less than one nor  
9 more than five years.

*Attempt to Burn Buildings or Property*

Sec. 5. Any person who wilfully and maliciously attempts  
2 to set fire to or attempts to burn or to aid, counsel or procure  
3 the burning of any of the buildings or property mentioned in  
4 the foregoing sections, or who commits any act preliminary  
5 thereto, or in furtherance thereof, shall upon conviction there-  
6 of, be sentenced to the penitentiary for not less than one nor  
7 more than two years or fined not to exceed one thousand  
8 dollars.

9 The placing or distributing of any flammable, explosive or  
10 combustible material or substance, or any device in any build-  
11 ing or property mentioned in the foregoing sections in an ar-  
12 rangement or preparation with intent to eventually wilfully  
13 and maliciously set fire to or burn same, or to procure the  
14 setting fire to or burning of same shall, for the purposes of  
15 this act constitute an attempt to burn such building or prop-  
16 erty.

## CHAPTER 46

(Senate Bill No. 226—By Mr. Robinson)

AN ACT to amend and re-enact chapter fifty-five of the acts of the legislature of one thousand nine hundred and twenty-three, relating to the grading and packing of fruits and vegetables for sale.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

**SEC.**

- |  |  |  |
|--|--|--|
| <p>1. Commissioner of agriculture to establish standard grades for closed packages of fruits or vegetables; to establish United States standard grades with consent of committee created hereby.</p> <p>2. Markings of closed packages containing fruits or vegetables required.</p> |  | <p>3. Powers of commissioner in enforcing provisions of act.</p> <p>4. When closed packages deemed offered or exposed for sale.</p> <p>5. Penalty for violation of act.</p> <p>6. When prosecution under act shall not be made.</p> <p>7. Certificates as prima facie evidence.</p> <p>8. Provisions of act separable.</p> |
|--|--|--|

*Be it enacted by the Legislature of West Virginia:*

That chapter fifty-five of the acts of the legislature of one thousand nine hundred and twenty-three, be amended and re-enacted to read as follows:

Section 1. That the commissioner of agriculture is hereby directed to establish and promulgate from time to time official standard grades for all closed packages of fruits and vegetables, by which the quantity, quality, and size may be determined, and prescribe and promulgate rules and regulations governing the markings which shall be required upon packages of fruits and vegetables for the purpose of showing the name and address of the producer or packer, the variety, quantity, quality and size of the product.

It is the intent of this act that the commissioner of agriculture of West Virginia shall promulgate all United States standard grades for fruits and vegetables and after consulting with the president of the state horticultural society and a committee of five fruit and vegetable growers appointed by the president of the state horticultural society, such committee to be made up of growers from the various fruit and vegetable producing sections of the state and shall act with their advice and consent in establishing such other grades within the state of West Virginia as in their judgment may be advisable.

Sec. 2. Whenever such standards for the grade or other classification of fruits and vegetables under this act becomes

3 effective, every closed package containing fruits or vegetables  
4 grown and packed in the state of West Virginia and sold, offered  
5 or exposed for sale, or packed for sale or transported for sale  
6 by any person, firm, company or organization, shall bear con-  
7 spicuously upon the outside thereof, in plain words and figures,  
8 such markings as are prescribed by the commissioner of agri-  
9 culture of West Virginia under the provisions of this act.

Sec. 3. The commissioner of agriculture of West Virginia  
2 shall be charged with the enforcement of the provisions of this  
3 act and for that purpose shall have power:

4 (a) To enter and inspect personally, or through any author-  
5 ized agent every place within the state of West Virginia where  
6 fruits or vegetables are produced, packed, or stored for sale,  
7 shipped, delivered for shipment, offered for sale, or sold, and  
8 to inspect such places and all fruit or vegetable containers and  
9 equipment found in any such place.

10 (b) To appoint, superintend, control and discharge such in-  
11 spectors and subordinate inspectors as in his discretion may be  
12 deemed to be necessary, for the special purpose of enforcing  
13 the terms of this act, to prescribe their duties and fix their  
14 compensations.

15 (c) Personally, or through any authorized agent or any such  
16 inspector, to forbid the movement of any closed package or  
17 packages of fruits or vegetables found to be in violation of any  
18 of the provisions of this act which have not been actually ac-  
19 cepted by a common carrier for shipment in interstate traffic,  
20 and to require the same to be repacked or remarked. A car-  
21 load of fruit or vegetables shall not be considered as actually  
22 accepted by a common carrier for shipment until the loading is  
23 finished, the car sealed and the bill of lading issued.

24 (d) To cause to be instituted through the prosecuting attor-  
25 neys of the state, in the circuit court of any county, or any  
26 justice of the peace, of the state of West Virginia in which  
27 fruits or vegetables are packed, shipped, delivered for shipment,  
28 offered for sale or sold, in violation of any of the provisions  
29 of this act, or may be found, prosecutions for such violations.

Sec. 4. When fruits or vegetables in closed packages are  
2 delivered to a railroad station or a common carrier for ship-  
3 ment, or delivered to a storage house for storage, such delivery  
4 shall be *prima facie* evidence that the fruits or vegetables are  
5 offered or exposed for sale, except in movement of unpacked

6 and unlabeled fruits or vegetables for the purpose of repacking.

Sec. 5. Any person, firm, company, organization or corporation, who shall violate any of the provisions of this act, shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars for each offense.

Sec. 6. No person, firm, or corporation shall be prosecuted under the provisions of this act:

(a) When he or it can establish by satisfactory evidence that he or it was not a party to the packing, grading or marking of such fruits or vegetables.

(b) When he or it can establish that the fruits or vegetables offered for sale have passed inspection by an authorized inspector of the state of West Virginia and bear the official West Virginia inspection stamp, or by an inspector of the United States department of agriculture and found to be packed in accordance with the requirements of the commissioner of agriculture of West Virginia.

Sec. 7. All certificates issued by inspectors in compliance with the regulations of the secretary of agriculture of the United States governing the inspection of fruits and vegetables pursuant to the act making appropriations for the United States department of agriculture, or pursuant to this act, shall be admissible as *prima facie* evidence in all courts of this state.

Sec. 8. If any section, sub-section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

## CHAPTER 47

(House Bill No. 3—By Mr. Rairden)

AN ACT creating a community demonstration in the utilization of garden products.

[Passed March 1, 1929; in effect ninety days from passage. Approved by the Governor.]

<p>SEC. 1. Community demonstration in utilization of garden products. 2. Extension division, College of Agri-</p>	<p>culture to select location and provide buildings. 3. How administered.</p>
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*Be it Enacted by the Legislature of West Virginia:*

Section 1. There is hereby established a community demonstration in the utilization of garden products for the purpose of teaching any citizen of West Virginia by the demonstration method how vegetables, berries, fruits or other garden products may be sorted, graded, processed or marketed under methods conforming to consumer demands and economically profitable to the producers.

Sec. 2. For carrying out the provisions and purposes of this act it shall be the duty of the Extension division, College of Agriculture to select a location for the aforesaid demonstration, and the duty of the state board of control to provide necessary buildings and equipment for suitably conducting such a demonstration at the location selected.

Sec. 3 This demonstration shall be administered as a part of the cooperative demonstration work of the Extension Division, College of Agriculture, West Virginia University. Any appropriations hereafter made to carry out the provisions and purposes of this act shall be expended through the State Board of Control.

## CHAPTER 48

House Bill No. 268—By Mr. McGlothlin)

AN ACT to amend and re-enact chapter thirty-four of the acts of the legislature of one thousand nine hundred and nineteen, as amended and re-enacted by chapter fifty-four of the acts of the legislature of one thousand nine hundred and twenty-three, regulating the sale of commercial feedstuffs.

[Passed March 6, 1929; in effect ninety days from passage. Approved by the Governor.]

- |   |  |
|---|--|
| <p>Sec.</p> <ol style="list-style-type: none"> <li>1. Definition of commercial feeding stuffs.</li> <li>2. Label on, what to show.</li> <li>3. Certificate of registration required; when may be cancelled; when issued and fee for; expiration; when tankage, etc., may be sold.</li> <li>4. When commission may refuse register commercial feeding stuffs.</li> <li>5. One registration of brand sufficient.</li> </ol> | <ol style="list-style-type: none"> <li>6. When sold or stored in bulk, printed cards required.</li> <li>7. Analysis of sample; methods of; publication of results of.</li> <li>8. Duties and powers of commissioner in enforcing act.</li> <li>9. When act violated, duty of commissioner.</li> <li>10. Penalty for violation of act by manufacturer and others.</li> <li>11. Inconsistent acts repealed.</li> </ol> |
|---|--|

*Be it enacted by the Legislature of West Virginia:*

That chapter thirty-four of the acts of the legislature of one thousand nine hundred and nineteen, as amended and re-enacted by chapter fifty-four of the acts of the legislature of one thousand nine hundred and twenty-three be amended and re-enacted so as to read as follows:

Section 1. The term "commercial feeding stuffs," as used in this article, or in any rule or regulation authorized thereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall mean all feeding stuffs used for feeding live stock and poultry, except whole seeds or grains, the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, and milo; whole hays, straws and corn stover, when unmixed with other materials, together with all other materials containing sixty per cent or more of water.

Sec. 2. Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within the state shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel.

(b) The name, brand or trademark.

(c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market.

(d) The minimum per cent of crude protein.

(e) The minimum per cent of crude fat.

(f) The maximum per cent of crude fiber.

(g) The specific name of each ingredient used in its manufacture with a statement of the amount or per cent of each such ingredients as salt, charcoal, carbonate, and phosphate of lime, grit and such inferior or objectionable materials as the commissioner may prescribe.

The crude protein, crude fat and crude fiber shall be determined by the methods in force at the time by the association of official agricultural chemists of the United States,

24 and the names of ingredients shall be in accordance with  
25 the definitions of feeding stuffs of the association of feed  
26 control officials of the United States.

Sec. 3. Every manufacturer who shall offer or expose for  
2 sale or distribute in this state any commercial feeding stuff  
3 shall before same is sold, offered or exposed for sale obtain  
4 from the commissioner of agriculture a certificate of registration  
5 for each brand of feed to be sold offered or exposed for sale.  
6 The commissioner of agriculture shall have full power to and  
7 is hereby authorized and required to cancel and withdraw  
8 any certificate upon satisfactory evidence that any rules and  
9 regulations covering the sale of commercial feeding stuffs  
10 has been violated by the holder of the same. The commis-  
11 sioner shall not issue any certificate of registration except  
12 upon the filing with the commissioner a certified copy of the  
13 statement specified in section two for each brand of com-  
14 mercial feeding stuffs accompanied by a fee of five dollars  
15 for each brand, which monies shall become a part of the  
16 general revenue of the state. All certificates so issued shall  
17 become null and void on June thirty next succeeding the  
18 issue thereof. Tankage, meat meal or meat scrap cannot  
19 be sold in this state through dealers or otherwise, except  
20 under the regulations of government inspection of tankage,  
21 meat meal or meat scraps, and each container shall have a  
22 prescribed label from the bureau of animal industry in com-  
23 pliance with the act of congress of June thirtieth, one thou-  
24 sand nine hundred and six.

Sec. 4. The commissioner of agriculture shall have power  
2 to refuse to register any commercial feeding stuffs under a  
3 name, brand or trademark which would be misleading or  
4 deceptive or which would tend to mislead or deceive as to  
5 the material of which it is composed, or when the specific  
6 name of each and all ingredients used in its manufacture are  
7 not stated, or when the amounts or percentages of materials  
8 as set forth in section two of this article are not certified.  
9 *Provided, however,* that the commissioner of agriculture shall  
10 refuse to register any mixed or commercial feed containing  
11 such inferior ingredients as sawdust, sweepings, damaged or  
12 salvaged feeds, cottonseed hulls, rice hulls, peanut hulls,  
13 buckwheat hulls, oat hulls whole or ground, and such inferior  
14 material ground on hammer mills for deception such as oat or

15 wheat straw knuckles, stems, off grade timothy, clover or any  
16-17 grasses or elevator sweepings, refuse, dust or alfalfa meal  
18 made from stalks, stems, knuckles or alfalfa hay unfit for  
19 commercial use except alfalfa meal made from hay that will  
20 grade as choice number one of second or third cutting as  
21 provided by United States department of agriculture grad-  
22 ing standards and such other ingredients as the commissioner  
22-a upon investigation may find to be harmful, or to have little, if  
22-b any, feeding value. He shall also have the power to refuse to  
23 register more than one commercial feeding stuffs under the  
24 same name or brand when offered by the same manufacturer,  
25 jobber, importer, firm, association, corporation or person to  
26 lower the guaranteed analysis or change the ingredients of  
27 any brand of his or their commercial feeding stuffs during  
28 the term for which registered unless satisfactory reasons are  
29 presented for making such change.

Sec. 5. Whenever a manufacturer, importer, jobber, firm,  
2 association, corporation or person manufacturing or selling a  
3 brand of commercial feeding stuff shall have filed the state-  
4 ment required by section three and the same has been regis-  
5 tered by the commissioner no other agent, importer, jobber,  
6 firm, association, corporation or person shall be required to  
7 file for registry such statement for such brand.

Sec. 6. Whenever any commercial feeding stuffs as de-  
2 fined in section one are offered or exposed for sale in bulk or  
3 otherwise stored, the manufacturer, importer, jobber, firm, as-  
4 sociation, corporation or person keeping the same for sale  
5 shall keep on hand cards upon which shall be printed the  
6 statement required by the provisions of section two, and  
7 when such feeding stuffs are sold at retail in bulk or in  
8 packages belonging to the purchaser, the manufacturer, job-  
9 ber, firm, association, corporation or person shall furnish the  
10 purchaser, upon request with a card or cards upon which ap-  
11 pears the statement required by the provisions of section two.

Sec. 7. The commissioner of agriculture shall annually  
2 cause to be analyzed at least one sample of every commercial  
3 feeding stuff that is found, sold, offered or exposed for sale, or  
4 distributed in this state. The methods of analysis shall be  
5 those in force at the time by the association of official agri-  
6 cultural chemists of the United States. The commissioner  
7 shall publish annually, in pamphlet or bulletin form the re-

8 sult of all analyses and other examinations required by this  
9 section, for the guidance of purchasers of commercial feeding  
10 stuffs in this state.

Sec. 8. The commissioner of agriculture shall enforce the  
2 provisions of this article, and prescribe and enforce such  
3 rules and regulations as he may deem necessary to effectuate  
4 the same. The commissioner, in person, or by deputy, shall  
5 have free access to all places of business, mills, buildings, car-  
6 riages, cars, vessels and parcels of whatsoever kind used in  
7 the manufacturing, transportation, importation, sale or stor-  
8 age of any commercial feeding stuffs, with power and au-  
9 thority to open any parcel containing or supposed to contain  
10 any commercial feeding stuffs, and, upon tender and full  
11 payment of the selling price, to take therefrom samples for  
12 analysis.

Sec. 9. Whenever it appears to the commissioner, or his  
2 deputy, that any of the provisions of this article have been  
3 violated, the commissioner shall certify the facts to the proper  
4 prosecuting attorney, and furnish him with a copy of the  
5 results of the analysis or other examination of such feeding  
6 stuffs, duly authenticated by the analysis or other officer  
7 making the examination under the oath of such officer:  
8 *Provided*, that if it shall appear from any such examination  
9 that any of the provisions of this article have been violated,  
10 the commissioner shall cause notice to be given to the manu-  
11 facturer or dealer from whom such sample was taken. Any  
12 party so notified shall be given an opportunity to be heard in  
13 his defense, under such rules and regulations as may be  
14 prescribed by the commissioner, before the facts shall be cer-  
15 tified to the proper prosecuting attorney.

Sec. 10. Any manufacturer, importer, jobber, firm, associa-  
2 tion, corporation or person, who shall sell, offer or expose  
3 for sale, or distribute, in this state, any commercial feeding  
4 stuffs without having attached thereto or furnished therewith  
5 such labels or tags, as required by this article, or who shall  
6 impede, obstruct, hinder, or otherwise prevent or attempt to  
7 prevent the commissioner or his authorized agent in the per-  
8 formance of his duty in connection with the provisions of this  
9 article, or who shall sell, offer or expose for sale or distribute  
10 in this state any commercial feeding stuffs as defined in sec-  
11 tion one without complying with the requirements of the pro-

12 visions of this article; or who shall sell, offer, or expose for  
 13 sale or distribute in this state any commercial feeding stuffs  
 14 which contain a smaller per cent of crude protein or crude  
 15 fat, or a larger percent of crude fiber than is certified to be  
 16 contained therein or who shall fail properly to state the  
 17 specific name of each and every inferior ingredient as set  
 18 forth in section two of this article, shall be guilty of a mis-  
 19 demeanor, and, upon conviction thereof, shall be fined not  
 20 more than one hundred dollars for the first violation, and not  
 21 less than one hundred nor more than two hundred dollars for  
 22 each subsequent violation.

Sec. 11. All acts or parts of acts inconsistent with this act  
 2 are hereby repealed.

## CHAPTER 49

(House Bill No. 41—By Mr. Calderwood)

AN ACT authorizing the issuance and sale of not exceeding twenty million dollars of road bonds of the state of West Virginia to raise money for road construction purposes under and by virtue of an amendment to the constitution, adopted at the general election held on the sixth day of November, one thousand nine hundred and twenty-eight; and to provide for the distribution and expenditure of the proceeds of sale thereof; and to provide for the levy and collection of an annual state tax and other revenues sufficient to pay semi-annually the interest on said bonds and the principal thereof within twenty-five years.

[Passed March 2, 1929; in effect from passage. Approved by the Governor.]

SEC.	Invested.
1. Sale of road bonds; amount and purpose.	7. Direct levy and other funds for payment of.
2. Dates and amounts; transfers of; where payable; interest rate; exemption from taxation.	8. Interim certificates.
3. Form of bonds.	9. Sale of bonds by governor; basis distribution proceeds.
4. Form of coupons.	10. Plates property of state.
5. Listing of, by auditor.	11. Administration expenses, how paid.
6. Sinking fund for; how created and	12. Auditor custodian of unsold bonds.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That bonds of the state of West Virginia of  
 2 the par value of twenty million dollars are hereby author-  
 3 ized to be issued and sold for the purpose of raising funds

4 for assisting in building and constructing the system of  
5 state roads and highways provided for by the amendment  
6 to the constitution adopted at the general election held in  
7 one thousand nine hundred and twenty, said bonds being  
8 authorized by an amendment to the constitution adopted at  
9 the general election held in the state of West Virginia in  
10 one thousand nine hundred and twenty-eight.

Sec. 2. Ten million dollars of said bonds shall be dated  
1 January the first, one thousand nine hundred and twenty-  
2 nine and shall become due and payable as follows:

3 January first, one thousand nine hundred and thirty, two  
4 hundred thousand dollars; January first, one thousand nine  
5 hundred and thirty-one, two hundred and fifty thousand dol-  
6 lars; January first, one thousand nine hundred and thirty-  
7 two, two hundred and fifty thousand dollars; January first,  
8 one thousand nine hundred and thirty-three, two hundred  
9 and fifty thousand dollars; January first, one thousand nine  
10 hundred and thirty-four, two hundred and seventy-five thou-  
11 sand dollars; January first, one thousand nine hundred and  
12 thirty-five, two hundred and seventy-five thousand dollars;  
13 January first, one thousand nine hundred and thirty-six,  
14 three hundred thousand dollars; January first, one thousand  
15 nine hundred and thirty-seven, three hundred and twenty-  
16 five thousand dollars; January first, one thousand nine hun-  
17 dred and thirty-eight, three hundred and twenty-five thou-  
18 sand dollars; January first, one thousand nine hundred and  
19 thirty-nine, three hundred and twenty-five thousand dol-  
20 lars; January first, one thousand nine hundred and forty,  
21 three hundred and fifty thousand dollars; January first, one  
22 thousand nine hundred and forty-one, three hundred and  
23 seventy-five thousand dollars; January first, one thousand  
24 nine hundred and forty-two, three hundred and seventy-five  
25 thousand dollars; January first, one thousand nine hundred  
26 and forty-three, four hundred thousand dollars; January  
27 first, one thousand nine hundred and forty-four, four hun-  
28 dred and twenty-five thousand dollars; January first, one  
29 thousand nine hundred and forty-five, four hundred and  
30 twenty-five thousand dollars; January first, one thousand  
31 nine hundred and forty-six, four hundred and fifty thousand  
32 dollars; January first, one thousand nine hundred and forty-  
33 seven, four hundred and seventy-five thousand dollars; Jan-

34 uary first, one thousand nine hundred and forty-eight,  
35 five hundred thousand dollars; January first, one thousand  
36 nine hundred and forty-nine, five hundred and twenty-five  
37-38 thousand dollars; January first, one thousand nine hundred  
39 and fifty, five hundred and twenty-five thousand dollars;  
40 January first, one thousand nine hundred and fifty-one,  
41 five hundred and seventy-five thousand dollars; January  
42 first, one thousand nine hundred and fifty-two, five hundred  
43 and seventy-five thousand dollars; January first, one thou-  
44 sand nine hundred and fifty-three, six hundred thousand  
45 dollars; January first, one thousand nine hundred and fifty-  
46 four, six hundred and fifty thousand dollars.

47 Ten million dollars of said bonds shall be dated January  
48 the first, one thousand nine hundred and thirty, and shall  
49 become due and payable as follows:

50 January first, one thousand nine hundred and thirty-one,  
51 two hundred thousand dollars; January first, one thousand  
52 nine hundred and thirty-two, two hundred and fifty thou-  
53 sand dollars; January first, one thousand nine hundred and  
54 thirty-three, two hundred and fifty thousand dollars; Jan-  
55 uary first, one thousand nine hundred and thirty-four, two  
56 hundred and fifty thousand dollars; January first, one thou-  
57 sand nine hundred and thirty-five, two hundred and seventy-  
58 five thousand dollars; January first, one thousand nine hun-  
58-a dred and thirty-six, two hundred and seventy-five thousand  
58-b dollars; January first, one thousand nine hundred and thir-  
58-c ty-seven, three hundred thousand dollars; January first, one  
58-d thousand nine hundred and thirty-eight, three hundred and  
58-e twenty-five thousand dollars; January first, one thousand  
59 nine hundred and thirty-nine, three hundred and twenty-  
60 five thousand dollars; January first, one thousand nine hun-  
61 dred and forty, three hundred and twenty-five thousand dol-  
62 lars; January first, one thousand nine hundred and forty-  
63 one, three hundred and fifty thousand dollars; January  
64 first, one thousand nine hundred and forty-two, three hun-  
65 dred and seventy-five thousand dollars; January first, one  
66 thousand nine hundred and forty-three, three hundred and  
67 seventy-five thousand dollars; January first, one thousand  
68 nine hundred and forty-four, four hundred thousand dollars;  
69 January first, one thousand nine hundred and forty-five,  
70 four hundred and twenty-five thousand dollars; January

71 first, one thousand nine hundred and forty-six, four hundred and twenty-five thousand dollars; January first, one thousand nine hundred and forty-seven, four hundred and fifty thousand dollars; January first, one thousand nine hundred and forty-eight, four hundred and seventy-five thousand dollars; January first, one thousand nine hundred and forty-nine, five hundred thousand dollars; January first, one thousand nine hundred and fifty, five hundred and twenty-five thousand dollars; January first, one thousand nine hundred and fifty-one, five hundred and twenty-five thousand dollars; January first, one thousand nine hundred and fifty-two, five hundred and seventy-five thousand dollars; January first, one thousand nine hundred and fifty-three, five hundred and seventy-five thousand dollars; January first, one thousand nine hundred and fifty-four, six hundred thousand dollars; January first, one thousand nine hundred and fifty-five, six hundred and fifty thousand dollars. All of said bonds may be coupon or registered and in such denomination as the governor may determine.

79 The auditor and treasurer are authorized to arrange for the transfer of registered bonds and for each such transfer a fee of fifty cents shall be charged by and paid to the state of West Virginia to the credit of the "state road sinking fund." Bonds taken in exchange shall be cancelled by the auditor and treasurer and be carefully preserved by the treasurer.

96 All of such bonds shall be payable at the office of the treasurer of the state of West Virginia, or, at the option of the holder of said bonds, at some designated bank in the City of New York, to be designated by the governor. Said bonds shall be interest bearing at a rate of not exceeding four and one-half *per centum per annum* and the said interest shall be payable semi-annually on the first day of January and July of each year to bearer, at the office of the treasurer of the state of West Virginia at the capitol of said state, or, at the option of the holder, at some designated bank in the city of New York, to be designated by the governor, upon presentation and surrender of the interest coupons representing the interest then due, in the case of the coupon bonds. In the case of registered bonds, the treasurer of the state of West Virginia shall issue his check upon requisition

111 of the state sinking fund commission for the payment of in-  
 112 terest on the first day of January and July of each year  
 113 for the amount of registered bonds outstanding as shown by  
 114 the records of his office.

115. Both the principal and interest of said bonds shall be  
 116 payable in gold coin of the United States of America of the  
 117 present standard of weight and fineness. All said bonds  
 118 shall be exempt from taxation by the state of West Vir-  
 119 ginia, or by any county, district or municipality thereof,  
 120 which fact shall appear on the face of the bonds as part of  
 121 the contract with the holder thereof.

Sec. 3. Said bonds and coupons shall be engraved and  
 2 the bonds signed on behalf of the state of West Virginia, by  
 3 the treasurer thereof, under the great seal of the state, and  
 4 countersigned by the auditor, and shall be in the following  
 5 form or to the following effect, as near as may be, namely:

6                                   COUPON GOLD BOND  
 7           (or Registered Gold Bond, as the case may be)  
 8                                   of the  
 9                                   State of West Virginia

10 \$\_\_\_\_\_ Number\_\_\_\_\_

11 The state of West Virginia, under and by virtue of author-  
 12 ity of an act of its legislature passed at the regular session  
 13 of one thousand nine hundred and twenty-nine, on the\_\_\_\_  
 14 \_\_\_\_\_day of\_\_\_\_\_one thousand nine  
 15 hundred and twenty-nine, and approved by the governor on  
 16 the\_\_\_\_\_day of\_\_\_\_\_, one thou-  
 17 sand nine hundred and twenty-nine, reference to which is  
 18 hereby made as fully and at length as if set forth herein,  
 19 acknowledges itself to be indebted to, and hereby promises  
 20 to pay to the bearer hereof (in the case of a coupon bond)  
 21 or to\_\_\_\_\_or assigns, (the owner of  
 22 record, in the case of registered bonds)\_\_\_\_\_

23 years after the date of this bond, to-wit on the\_\_\_\_\_

24 day of\_\_\_\_\_, 19\_\_\_\_, in gold coin of  
 25 the United States of America of the present standard of  
 26 weight and fineness, at the office of the treasurer of the  
 27 state of West Virginia, at the capitol of said state, or at the  
 28 option, of the holder at\_\_\_\_\_bank in the  
 29 City of New York, the sum of\_\_\_\_\_dollars,  
 30 with interest thereon at\_\_\_\_\_per centum per an-

31 *num* from date, payable semi-annually in gold coin of the  
 32 United States of America, at the treasurer's office or bank  
 33 aforesaid, on the first day of January and first day of July  
 34 of each year, (and in the case of coupon bonds) according  
 35 to the tenor of the annexed coupons, bearing the engraved  
 36 *fac-simile* signature of the treasurer of the state of West  
 37 Virginia.

38 To secure the payment of this bond, principal sum and in-  
 39 terest, when other funds and revenues sufficient are not  
 40 available for that purpose, it is agreed that the board of  
 41 public works of the state of West Virginia shall annually  
 42 cause to be levied and collected an annual state tax on all  
 43 property in the state, until said bond is fully paid; sufficient  
 44 to pay the annual interest on said bond and the principal  
 45 sum thereof within the time this bond becomes due and pay-  
 46 able.

47 This bond is hereby made exempt from any taxation by  
 48 the state of West Virginia, or by any county, district or  
 49 municipal corporation thereof.

50 In testimony whereof, witness the signature of \_\_\_\_\_,  
 51 treasurer of the state of West Virginia, and the counter-  
 52 signature of \_\_\_\_\_, auditor of said  
 53 state affixed according to law, dated the \_\_\_\_\_ day of  
 54 \_\_\_\_\_, one thousand nine hundred and  
 55 \_\_\_\_\_, and the seal of the state of West Virginia.

56 \_\_\_\_\_  
 57 Treasurer of the State of West Virginia.

58 (SEAL)

59 Countersigned:

60 \_\_\_\_\_

61 Auditor of the State of West Virginia.

Sec. 4. The form of coupons shall be substantially as fol-  
 2 lows, to-wit:

3 State of West Virginia

4 Bond No. \_\_\_\_\_ Coupon No. \_\_\_\_\_

5 On the first day of \_\_\_\_\_, 19\_\_\_\_, the state  
 6 of West Virginia will pay to bearer, in gold coin of the  
 7 United States of the present standard of weight and fine-  
 8 ness, at the office of the treasurer of the state, or at the op-  
 9 tion of the holder at \_\_\_\_\_ bank in  
 10 New York City, the sum of \_\_\_\_\_ dol-

11 lars, the same being the semi-annual interest on Bond  
 12 No.-----, series of one thousand nine hundred and  
 13 -----  
 14 -----

15 Treasurer of the State of West Virginia.

16 The signature of the treasurer to said coupons shall be by  
 17 his engraved *fac-simile* signature, and each coupon shall be  
 18 impressed on the back with its number in order of maturity  
 19 from number one consecutively. Said bonds and coupons  
 20 may be signed by the present treasurer and auditor, or by  
 21 any of their respective successors in office; but no change in  
 22 such signatures shall be necessary by reason of any change  
 23 of said officers.

Sec. 5. All coupons and registered bonds issued under  
 2 this act shall be separately listed by the auditor of the state  
 3 in books provided for the purpose, in each case giving the  
 4 date, number, character and amount of obligations issued,  
 5 and, in case of registered bonds, the name of persons, firm  
 6 or corporation to whom issued.

Sec. 6. A fund is hereby created, designated as state  
 2 road interest and sinking fund number two. As soon as this  
 3 act takes effect, and on the second day of January in each  
 4 year thereafter, the state road commission shall transmit to  
 5 the state sinking fund commission an amount sufficient to  
 6 pay the interest on the amount of bonds to be outstanding  
 7 at the end of said year and also sufficient to pay the  
 8 amount of bonds maturing during the current year. All  
 9 such funds shall be kept by the state sinking fund com-  
 10 mission in a separate account, under the designation afore-  
 11 said, and all money belonging to said fund shall be depos-  
 12 ited in the state treasury to the credit thereof. The state  
 13 sinking fund commission may invest said fund temporarily  
 14 until needed in bonds of the government of the United  
 15 States, the state of West Virginia, or some political sub-di-  
 16 vision thereof; *provided, however*, that bonds so purchased  
 17 by the said state sinking fund commission shall mature so as  
 18 to provide sufficient money to pay off bonds herein pro-  
 19 vided to be issued as they may become due, and the inter-  
 20 est thereon; and said state road interest and sinking fund  
 21 number two shall be expended for the purpose of paying in-  
 22 terest and principal of the bonds hereby provided for, and

23 for no other purposes, except that said fund may be invested  
24 until needed as herein provided.

Sec. 7. In order to provide the revenue necessary for the  
2 payment of the principal and interest of said bonds, as here-  
3 inbefore provided, the board of public works is authorized,  
4 empowered and directed to lay annually a tax upon all real  
5 and personal property subject to taxation within this state,  
6 sufficient to pay the interest on said bonds accruing during  
7 the current year and the principal of said bonds according  
8 to the schedule set out in section two of this act; and said  
9 taxes, when so collected, shall not be liable for or applicable  
10 to any other purpose.

11 *Provided, however,* if there be other funds in the state  
12 treasury, or in the state road fund, in any fiscal year, not  
13 otherwise appropriated, or if other sources of revenue be  
14 hereafter provided by law for the purpose, the board of pub-  
15 lic works is authorized, empowered and directed to set apart,  
16 in any year there be such funds, or other sources of rev-  
17 enue provided for such purpose, a sum sufficient to pay the  
18 interest on said bonds accruing during the current year, and  
19 to pay off and retire the principal of said bonds, or any  
20 part thereof, at maturity.

21 The authority hereby vested in the board of public works  
22 shall be in addition to the authority now vested in it by  
23 present law.

Sec. 8. The governor may authorize the issuance of in-  
2 terim certificates to be issued to the purchasers of said bonds  
3 to be held by them in lieu of engraved bonds. When said  
4 interim certificates are so issued, they shall become full and  
5 legal obligations of the state of West Virginia under all of  
6 the provisions of this act just as fully and completely as the  
7 engraved and permanent bonds.

Sec. 9. The governor shall sell all bonds herein men-  
2 tioned at such time or times as he may determine necessary  
3 to provide funds for road construction purposes, as herein  
4 provided, upon recommendation of state road commission.  
5 All sales shall be at not less than par and interest accrued  
6 since the last semi-annual dividend period. All interest cou-  
7 pons becoming payable prior to said sale date shall be can-  
8 celled by the treasurer and rendered ineffective before the  
9 delivery of the bonds so sold. Registered bonds shall bear

10 interest only from the date of delivery.

11 (a) The proceeds of all sales of bonds herein authorized  
12 shall be paid into the state road fund created by section fifteen  
13 chapter one hundred and twelve of the acts of the legislature  
14 of one thousand nine hundred and twenty-one; and the pro-  
15 ceeds from the sale of said bonds shall be apportioned by  
16 the state road commission among the several counties on the  
17 eighty-twenty basis in accordance with the provisions of  
18 section twenty-three chapter seventeen of the acts of the  
19 legislature of one thousand nine hundred and twenty-five.

Sec. 10. The plates from which the bonds authorized by  
2 this act are engraved shall be the property of the state of  
3 West Virginia.

Sec. 11. All necessary expenses incurred in the execu-  
2 tion of this act shall be paid out of any money in the treas-  
3 ury of the state of West Virginia, not otherwise appropriated,  
4 on warrants of the auditor of the state drawn on the state  
5 treasurer.

Sec. 12. The state auditor shall be the custodian of all  
2 unsold bonds issued pursuant to the provisions of this act.

## CHAPTER 50

(House Bill No. 105—By Mr. Harmer)

AN ACT to authorize the issue of duplicate for any lost or de-  
stroyed outstanding registered West Virginia state road  
bonds issued under and by virtue of the laws of the state  
of West Virginia.

[Passed February 19, 1929; in effect from passage. Approved by the Governor.]

SEC.		2. Form of.
1. Duplicates for registered state road		3. Treated as original bond.
bonds, when issued.		4. Duty of finder of lost bond.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That upon the filing with the state treas-  
2 urer, proof, which in his judgment and discretion is full and  
3 satisfactory of the loss or destruction of any registered West  
4 Virginia state road bond issued by virtue of the laws of this  
5 state, and a corporate surety bond in an amount equal to  
6 the face value of the lost bond, conditioned to indemnify

7 the state of West Virginia and all persons against any loss  
8 in consequence of the issuance of a duplicate bond, the treas-  
9 urer and auditor of the state shall be authorized to issue  
10 and deliver to the last registered holder of any such lost or  
11 destroyed bond, a duplicate thereof.

Sec. 2. Each duplicate bond issued under the provisions  
2 of section one of this act shall correspond with the original  
3 as to date, maturity, form and execution, except it may be  
4 given a number different from the original. It shall have  
5 printed or engraved on the face thereof the word "dupli-  
6 cate," and on its back a certificate executed by the treasurer  
7 in the following form: "The within duplicate bond is ex-  
8 ecuted and issued under and by virtue of an act of the West  
9 Virginia legislature passed on the ..... day of .....,  
10 1929, in lieu of road bond number ---- in the amount  
11 of \$....., dated ....., 192., and maturing .....,  
12 19..."

Sec. 3. Any duplicate bond issued hereunder shall be  
2 taken and treated in all respects as the original, and the  
3 original shall be deemed cancelled.

Sec. 4. The finder of any lost bond for which a duplicate  
2 has been issued shall forthwith transmit the same to the treas-  
3 urer, who shall cancel it. Any person who shall retain pos-  
4 session of any such bond with knowledge that a duplicate  
5 has been issued therefor, shall be guilty of a misdemeanor,  
6 and upon conviction be fined not exceeding one thousand  
7 dollars or confined in jail not exceeding one year.

## CHAPTER 51

(House Bill No. 199—By Mr. Lakin)

AN ACT to provide employment for prisoners at the West  
Virginia Penitentiary.

[Passed March 6, 1929; in effect from passage. Approved by the Governor.]

SEC. 1. Convict labor on roads; approval | of governor of contracts for; in-  
consistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The state board of control in accordance with  
2 proper rules and regulations to be made by said board may

3 hire to the state road commission, the county court of any  
4 county, or to contractors engaged in the construction of roads  
5 in this state, for work on said roads, the labor of any or all  
6 convicts confined in the penitentiary at Moundsville, such  
7 convicts to be selected by the warden of the penitentiary,  
8 and be subject to the rules and regulations of the peniten-  
9 tiary. All contracts for the labor of such convicts, before  
10 becoming final and binding, shall have the approval of the  
11 governor.

Sec. 2. All acts or parts of acts inconsistent herewith are  
2 herewith repealed.

## CHAPTER 52

(Senate Bill No. 42—By Mr. Hallanan)

AN ACT to provide additional compensation, payable out of the  
county treasury, for judges of circuit courts in judicial circuits  
having a population of one hundred thousand or more, accord-  
ing to the population as estimated by the United States bureau  
of census for July first, one thousand nine hundred twenty-six.

[Passed February 8, 1929; in effect from passage. Approved by the Governor.]

SEC.

- |  |  |                           |                   |
|--|--|---------------------------|-------------------|
| 1. Salaries of judges in judicial cir-<br>cuits having a population of one |  | hundred thousand or more. | 2. How pro rated. |
|--|--|---------------------------|-------------------|

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county courts or such tribunals as may  
2 exist in lieu thereof of the counties composing a judicial circuit  
3 wherein the combined population of such counties is one hun-  
4 dred thousand or more, according to the estimated population  
5 for such counties made by the bureau of census of the United  
6 States for July first, one thousand nine hundred twenty-six,  
7 shall pay each judge of the circuit court of such circuit out  
8 of the general county fund, as other salaries are paid, in addi-  
9 tion to the amount allowed and paid to such judge out of the  
10 state treasury, the sum of two thousand five hundred dollars  
11 per annum, each.

Sec. 2. In those circuits wherein there are more than one  
2 county, the additional compensation here provided and author-  
3 ized, shall be paid *pro rata* by the counties within such circuit,

4 each county paying such proportionate part of said compensa-  
5 tion as its population bears to the population of the entire  
6 circuit.

7 All acts or parts of acts in conflict and inconsistent herewith  
8 are hereby repealed.

## CHAPTER 53

(House Bill No. 128—By Mr. Ulrich)

AN ACT to amend and re-enact section one-d of chapter eleven  
of Barnes' code of West Virginia, one thousand, nine hun-  
dred and twenty-three, relating to office and stenographer  
for circuit judges.

[Passed March 8, 1929; in effect ninety days from passage. Approved by the  
Governor.]

SEC. 1-d.	When office rent, stenographic services and other office expense		for judges to be paid by county courts.
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*Be it enacted by the Legislature of West Virginia:*

That section one-d of chapter eleven of Barnes' code of West  
Virginia, one thousand nine hundred and twenty-three, be  
amended and re-enacted to read as follows:

Section 1-d. Each of the judges of the circuit courts in  
2 the several judicial circuits in this state, where the county  
3 court of the county in which such judge resides provides no  
4 suitable office room for such judge, is hereby allowed a rea-  
5 sonable sum, not to exceed forty dollars per month, as rent  
6 for an office room for the use of such judge for the conduct  
7 of his official business, the same to be payable at the times  
8 and in the manner provided for the payment of the salary  
9 of such judge.

10 Each of the judges of the circuit court of the several  
11 judicial circuits of this state is hereby allowed such reason-  
12 able amounts, not to exceed fifty dollars per month, for the  
13 payment of necessary stenographic fees incurred by such  
14 judge in his official duty as such, which sum shall likewise  
15 be paid at the same time and in the same manner as pro-  
16 vided for the salary of such judge; *provided, however, that*

17 in the first judicial circuit each judge is hereby allowed not  
18 to exceed one hundred dollars per month for such steno-  
19 graphic services.

20 Each of the judges of the circuit court of the several ju-  
21 dicial circuits of this state is hereby allowed his actual ex-  
22 penses incurred for lighting and heating his official office,  
23 for official stationery and postage used in his official busi-  
24 ness; *provided*, that the allowance in this section shall not  
25 exceed the sum of twenty-five dollars per month; which sum  
26 shall likewise be paid at the time and in the same manner  
27 as provided for the salary of such judge; *provided*, that no  
28 allowances shall be made under this section until the judge  
29 submits an itemized statement covering the same.

## CHAPTER 54

(Senate Bill No. 16—By Mr. Woodyard)

AN ACT to amend and re-enact section one hundred and thirty-  
two-*a*, of chapter twenty-nine of Barnes' code of West Vir-  
ginia, nineteen hundred and twenty-three edition, relating  
to the correction of erroneous assessments.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the  
Governor.]

SEC.

132-*a*. County court to correct mis-  
takes, etc., in land and personal  
property books, exception; how

relief from erroneous assess-  
ment obtained; application and  
proceedings on.

*Be it enacted by the Legislature of West Virginia:*

1. That section one hundred and thirty-two-*a*, of chapter  
twenty-nine of the nineteen hundred and twenty-three edition of  
Barnes' code of West Virginia, be amended and re-enacted so as  
to read as follows:

Section 132-*a*. Authority is hereby vested in the county court  
2 to correct mistakes, clerical errors, and other errors made by  
3 the assessor in the land and personal property books, except the  
4 fixing of valuation, unless such valuation relates to evidences of  
5 indebtedness against or shares of stock in a bank, trust company,  
6 national banking association or building and loan association  
7 which shall have suspended business by reason of impairment of

8 its capital subsequent to the time the assessor shall have made  
9 up and completed his books. Any taxpayer, or the prosecuting  
10 attorney or state tax commissioner on behalf of the state, county  
11 and districts, claiming to be aggrieved by any entry in the land  
12 or personal property books of the county, resulting from such  
13 mistake, or clerical error or any error, resulting from any cause  
14 other than the value of the property as fixed by the assessor or  
15 board of review or equalization, (unless such valuation shall  
16 relate to evidences of indebtedness against or shares of stock  
17 in a bank, trust company, national banking association or build-  
18 ing and loan association which shall have suspended business  
19 by reason of impairment of its capital subsequent to the time  
20 the assessor shall have made up and completed his books, as  
21 aforesaid), may, within one year from the time such land or  
22 personal property books are delivered to the sheriff, apply for  
23 relief to the county court of the county in which such books are  
24 made out. But before such application is heard, the taxpayer  
25 shall give notice to the prosecuting attorney of the county or the  
26 state shall give notice to the taxpayer, as the case may be, of  
27 such hearing. Such application whether the case be by the  
28 taxpayer or the state, shall have precedence of all other business  
29 before the court; but any order or judgment made upon such  
30 application shall show that either the prosecuting attorney or  
31 the state tax commissioner was present defending the interests  
32 of the state, county and district. In the event it shall be  
33 ascertained that such applicant is entitled to relief as aforesaid  
34 and the taxes have been paid, the same shall be refunded to the  
35 taxpayer, and if charged and not paid, such applicant shall be  
36 released from the payment thereof. And whenever any such  
37 is corrected by the county court the clerk of the court shall  
38 certify a copy of such order to the auditor, to the sheriff and to  
39 the assessor, and, if real estate, said assessor shall thereupon  
40 make a correction in his land book for the next year according  
41 to such order. Any such order delivered to the sheriff or other  
42 collecting officer shall restrain him from collecting so much as is  
43 erroneously charged against the taxpayer, and if the same has  
44 been already collected, shall compel him to refund the money if  
45 such officer has not already paid the same into the treasury,  
46 and in either case, when endorsed by the person exonerated, it  
47 shall be sufficient voucher to entitle the officer to a credit for  
48 so much in his settlement which he is required to make. If the

49 applicant be the state, then the order so certified to the sheriff  
 50 shall show the correct amount of taxes due the state, county and  
 51 districts and shall be sufficient to authorize him to collect such  
 52 taxes in the same manner as other state, county and district  
 53 taxes are collected. The provisions of this section shall apply  
 54 to taxes levied for the year nineteen hundred and twenty-eight.

## CHAPTER 55

(Senate Bill No. 258—By Mr. Smith, of Marion)

AN ACT to amend and re-enact section one hundred and twenty-nine of chapter twenty-nine of the code of West Virginia, relating to relief against erroneous assessment of taxes and providing for appeals to the supreme court of appeals in certain cases.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

### SEC.

129. Procedure for appeal from assessment after appearance before board of equalization and review; who may appeal; precedence of appeal; correction of assessment by court; what order

to show; refund of excess tax; correction of assessment when too low; copy of order of court increasing valuation; appeal by state or taxpayer to supreme court of appeals.

*Be it enacted by the Legislature of West Virginia:*

That section one hundred and twenty-nine of chapter twenty-nine of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 129. Any person claiming to be aggrieved by any  
 2 assessment in any land or personal property book of any county  
 3 who shall have appeared and contested the same as provided  
 4 in section eighteen of this chapter, may, within thirty days from  
 5 the adjournment of the board of equalization and review, apply  
 6 for relief to the circuit court of the county in which such books  
 7 are made out; but he shall, before any such application is heard,  
 8 give ten days' notice to the prosecuting attorney of the county,  
 9 whose duty it shall be to attend to the interests of the state,  
 10 county and district in the matter, and the prosecuting attorney  
 11 shall give at least five days' notice of such hearing to the state  
 12 tax commissioner; the right of appeal from any assessment by

13 the board of review as hereinbefore provided, may be taken  
14 either by the applicant or by the state, etc., and in case the  
15 applicant, by his agent or attorney, or the state, by its prose-  
16 cuting attorney or state tax commissioner, desires to take an  
17 appeal from the decision of the board of review, the party de-  
18 siring to take such an appeal shall have the evidence taken at  
19 the hearing of such application before the board of review,  
20 certified by said board, and such appeal when allowed by the  
21 court or judge in vacation, shall have precedence over all other  
22 cases pending in such court, and such appeal shall be deter-  
23 mined from the evidence so certified; if, upon the hearing of  
24 such appeal, it is determined that any property has been as-  
25 sessed for more than its true and actual value, the court shall,  
26 by an order entered of record, correct every such assessment,  
27 fixing such property at its true and actual value; a copy of  
28 such order or orders entered by the circuit court reducing the  
29 valuation of any assessment shall be certified to the auditor by  
30 the clerk within twenty days after the entering of same; every  
31 such order or judgment shall show that the prosecuting attor-  
32 ney or state tax commissioner was present and defended the  
33 interest of the state, county and district. In the event it shall  
34 be ascertained that any land or personal property has been  
35 assessed too high and that the owner has paid the excess tax,  
36 it shall be refunded to him, and if not paid he shall be relieved  
37 from the payment thereof; if, upon such application it is  
38 ascertained that any property is assessed too low, the court  
39 shall, by an order entered of record, correct every such assess-  
40 ment, fixing it at its true and actual value. A copy of any  
41 order or orders entered by any court increasing the valuation  
42 of any property shall be certified within twenty-days after  
43 the entering of same to the auditor, the county clerk and the  
44 sheriff, and it shall be the duty of the auditor, the county clerk  
45 and the sheriff to charge any taxpayer affected by such order  
46 with the increase of taxes occasioned by the increase of such  
47 assessment by applying the rate of levies for every purpose in  
48 the district where such property is situated for the current  
49 year; such order shall also be filed in the office of the auditor  
50 and clerk of the county court. The state or any taxpayer shall  
51 have an appeal as a matter of right to the supreme court of  
52 appeals where the value of the property is fifty thousand dol-  
53 lars or more.

## CHAPTER 56

(House Bill No. 240—By Mr. Hogg)

AN ACT amending and re-enacting section eighteen of chapter twenty-nine of Barnes' West Virginia code, relating to the appointment and duties of boards of review and equalization.

[Passed March 2, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

18. Boards of review and equalization created; organization of and terms of members; bond and oath required; meetings of; duties of county assessors concurring review of and correction of land and personal property

books by; notice to property owners of increase in assessment; published notice of increase in entire valuation in any one district; duty of clerk of county court concerning; application for relief by dissatisfied taxpayer.

*Be it enacted by the Legislature of West Virginia:*

That section eighteen of chapter twenty-nine of Barnes' West Virginia code, relating to the appointment and duties of boards of review and equalization be amended so as to read as follows:

Section 18. After April first, one thousand nine hundred 2 and nine, the board of public works shall appoint three citi- 3 zens of each county who are freeholders and entitled to vote, 4 not more than two of whom shall belong to the same political 5 party, who shall constitute for such county, a board of review 6 and equalization; but no two of said board shall be appointed 7 from the same magisterial district; said board shall annually 8 elect one of their members as president, and two of the mem- 9 bers of said board shall constitute a quorum for the trans- 10 action of business; the salary of the members shall be four 11 dollars per day for each day actually in session of not less 12 than six hours, and shall be provided for and paid out of 13 the county levy for the current year. The term of office 14 of such members shall begin at the date of appointment and 15 shall continue for a term of six years, except that at the 16 first meeting of said commissioners they shall designate by 17 lot, or otherwise, in such manner as they may determine, one 18 of their board, who shall hold his office for the term of two 19 years, one for four years, and one for six years, so that one 20 shall be appointed every two years; any member may be re- 21 moved by the board of public works and the vacancy filled 22 by it. Every member so appointed shall, within twenty days

23 after his appointment, execute a bond with good security to be  
24 approved by the county court of his county, or the clerk  
25 thereof in vacation, in the penalty of five thousand dollars  
26 conditioned for the faithful performance of the duties of his  
27 office and shall take the oath or affirmation prescribed by  
28-29 section five of article four of the constitution, and  
30 such oath shall be certified by the person who ad-  
31 ministers the same and filed in the office of the state  
32 tax commissioner. After the year one thousand nine  
33 hundred and eight the board of review and equalization shall  
34 annually, not later than the fifth day of July, meet at the  
35 county seat of such county and proceed forthwith to review  
36 and equalize the assessment of the county as returned by the  
37 assessor. The said board shall not remain in session for a  
38 longer period than twenty-five days from the first date of  
39 meeting and during this period shall not adjourn longer than  
40 three days at a time until the work of review and equaliza-  
41 tion, as provided by this section is completed; at the first  
42 meeting of said board the county assessor shall submit to the  
43 board the land books and personal property books for the  
44 current year as prepared by him; the land books and personal  
45 property books shall be completed in every particular at the  
46 time they are submitted to the board, except that the levies  
47 shall not be extended; the assessor and his assistants shall  
48 attend the session of the said board of review and equaliza-  
49 tion, and render every assistance possible relative to the  
50 value of property assessed by them; the said board shall pro-  
51 ceed to examine and review the land and personal property  
52 books, and of its own motion or upon sufficient cause being  
53 shown by any person, shall add to the land and personal  
54 property books the names of persons, the value of the personal  
55 property and the description and value of real estate liable  
56 to assessment in said county and omitted from said assesss-  
57 ment books by the assessor; they shall correct all errors in  
58 the names of persons, in the description of property upon  
59 such books and in the assessment and valuation of property  
60 thereon, and they shall cause to be done whatever else may  
61 be necessary to make said assessment as returned by the per-  
62 sonal property assessor comply with the provisions of this

63 chapter, and to the end that all property shall be equitably  
64 assessed at its true and actual value; the board shall pass  
65 upon each valuation and each interest, and shall enter the  
66 valuation of each as fixed by it in a separate column in the  
67 land and personal property books prepared for the purpose;  
68 if it shall be determined by said board that any property or  
69 interest is assessed at more or less than its true and actual  
70 value, it shall increase or reduce the value of such property,  
71 fixing it at its true and actual value. But no assessment  
72 shall be increased without giving to the property owner at  
73 least five days notice, in writing, signed by the president of  
74 the board, of the intention of said board to make such in-  
75 crease. Service of such notice shall be sufficient if served on  
76 the property owner, his agent or attorney, in person, or by  
77 registered mail of said notice to said property owner, his  
78 agent or attorney, at their last known place of abode, or in  
79 any other manner provided by law, for the service of notice  
80 or process. But when it is desired to increase the entire val-  
80-a uation in any one district within the county by a general  
80-b raise in such district then due notice may be given by pub-  
80-c lication in two newspapers published in the county, once  
80-d each week for two consecutive weeks, such publication to  
80-e be had at least five days prior to the increase in the said  
80-f valuation. When such assessment is made the same shall not  
81 be again changed, except after such notice is again given as  
82 heretofore provided and subject to appeal to the courts as  
83 hereinafter provided. The clerk of the county court shall be  
84 *ex-officio* the clerk of the board of equalization and review;  
85 said clerk shall cause notice to be published once each week  
86 for three successive weeks before the meeting of said board  
87 of review and equalization in two newspapers of general cir-  
88 culation published in the county, of opposite politics, if there  
89 be such; if there be no newspaper published in the county,  
90 then such notice shall be published in some newspaper of  
91 general circulation; the notice so to be published shall state  
92 briefly the time and place of holding such meeting, and the  
93 general purpose thereof; the expense of such publication  
94 shall be provided for and paid out of the county treasury;  
95 if any person fail to apply for relief at said meeting he shall  
96 be deemed to have waived his right to ask for correction in  
97 his assessment list for the current year, and shall not there-

98 after be permitted to question the correctness of his list as  
 99 finally fixed by said board. After said board shall complete  
 100 the review and equalization of the land and personal prop-  
 101 erty books, a majority of said board shall endorse and sign  
 102 a statement to the effect that the same is the completed  
 103 assessment of said county for the year for which it has been  
 104 prepared and approved by the board of equalization and  
 105 review; then said land and personal property books shall be  
 106 delivered to the assessor and the levies upon the same ex-  
 107 tended as provided by law. If any taxpayer of the state,  
 108 county or district, is dissatisfied with the valuation as fixed  
 109 by said board, they shall have the right to apply for relief,  
 110 as provided in section one hundred and twenty-nine of this  
 111 chapter.

## CHAPTER 57

(Senate Bill No. 14—By Mr. Hugus)

AN ACT amending and re-enacting sections one, two, two-a and six of chapter thirty-three of Barnes' West Virginia code, one thousand nine hundred and twenty-three, relating to transfer of estates of deceased persons.

[Passed March 5, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec.

1. Inheritance tax; when imposed.
2. Primary rates.
- 2-a. Rate when value exceeds fifty thousand dollars.
6. What property of deceased non-

residents subject to tax; reciprocal exemption; what personal property not taxed; definition of intangible personal property; how reciprocal exemption operated.

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, two-a and six of chapter thirty-three of Barnes' code of one thousand nine hundred and twenty-three, relating to transfer of estates of deceased persons be amended and re-enacted so as to read as follows:

### *When Imposed*

Section 1. A tax, payable into the treasury of the state, shall  
 2 be imposed upon the transfer, in trust, or otherwise, of any  
 3 property, or interest therein, real, personal, or mixed, of five  
 4 hundred dollars or more if such transfer be;

5 (a) By will or by laws of this state regulating descents and  
6 distributions from any person who is a resident of the state at  
7 the time of his death and who shall die seized or possessed of  
8 property;

9 (b) By will or by laws regulating descents and distributions,  
10 or property within the state or within its jurisdiction, and the  
11 decedent was a non-resident of the state at the time of his  
12 death;

13 (c) By a resident, or be of property within the state, or  
14 within its jurisdiction, by a non-resident, by deed, grant, bar-  
15 gain, sale or gift, made in contemplation of the death of the  
16 grantor, bargainor or donor, or intended to take effect in posses-  
17 sion or enjoyment at or after such death. Every transfer by  
18 deed, grant, bargain, sale or gift, made within three years prior  
19 to the death of the grantor, bargainor, vendor, or donor, of  
20 value of five hundred dollars, or in excess thereof, at the time  
21 of such transfer in the nature of final disposition, or distribu-  
22 tion of an estate, and without adequate valuable consideration,  
23 shall be construed to have been made in contemplation of death  
24 within the meaning of this chapter. This provision shall apply  
25 to all transfers heretofore made within the period of three years  
26 from the time this act becomes effective;

27 (d) If any person shall transfer any property which he owns  
28 or shall cause any property, to which he is absolutely entitled,  
29 to be transferred to, or vested in himself and any other person  
30 jointly so that the title therein, or in some part thereof, vest  
31 any survivorship in such other person, a transfer shall be  
32 deemed to occur and to be taxable under the provisions of this  
33 act upon the vesting of such title;

34 (e) Whenever any person shall exercise a power of appoint-  
35 ment derived from any disposition of property made, whether  
36 before or after the passage of this act, such appointment when  
37 made shall be deemed a transfer taxable under the provisions  
38 of this act in the same manner as though the property to which  
39 such appointment relates belonged absolutely to the donee of  
40 such power and had been bequeathed or devised by such donee  
41 by will; and whenever any person possessing such a power of  
42 appointment so derived shall omit or fail to exercise the same  
43 within the time provided therefor, in whole or in part, a trans-  
44 fer taxable under the provisions of this act shall be deemed to  
45 take place to the extent of such omission or failure, in the same

46 manner as though the person thereby becoming entitled to the  
47 possession or enjoyment of the property to which such power  
48 related had succeeded thereto by a will of the donee of the  
49 power failing to exercise such power, and shall take effect at  
50 the time of such omission or failure.

#### *Primary Rates*

Sec. 2. When the property or any beneficial interest therein  
2 passes by any such transfer where the amount of the property  
3 shall exceed in value the exemption hereinafter specified, and  
4 shall not exceed in value fifty thousand dollars, the tax hereby  
5 imposed shall be:

6 (a) Where the person or persons entitled to any beneficial in-  
7 terest in such property shall be the wife, husband, child, step-  
8 child, or the descendants of a living or deceased child *per stirpes*,  
9 or father or mother of the decedent, at the rate of two *per cen-*  
10 *tum* of the market value of such interest in such property;

11 (b) Where the person or persons entitled to any beneficial  
12 interest in such property shall be the brother or sister of the  
13 decedent (and the term brother or sister shall not include a  
14 brother or sister of the half blood) at the rate of four *per*  
15 *centum* of the market value of such interest in such property;

16 (c) Where the person or persons entitled to any beneficial  
17 interest in such property shall be further removed in relation-  
18 ship from the decedent than brother or sister, the rate of seven  
19 *per centum* of the market value of such interest in such prop-  
20 erty;

21 (d) Where the person or persons entitled to any beneficial  
22 interest in such property shall be of no blood relation or strang-  
23 ers to the decedent, or institutions, corporate or otherwise, ex-  
24 cept such eleemosynary institutions as are hereinafter exempt,  
25 the rate of nine *per centum* of the market value of such interest  
26 in such property.

#### *Excess Market Value*

Sec. 2-a. When the market value of any such property ex-  
2 ceeds fifty thousand dollars, the rate of tax upon such excess  
3 shall be as follows:

4 (a) Upon all in excess of fifty thousand dollars, up to and  
5 not exceeding five hundred thousand dollars, passing to those  
6 persons in sub-section (a) of section two at the rate of five *per*

7 *centum* of the market value of such interest in such property;  
8 (b) Upon all in excess of fifty thousand dollars, up to and  
9 not exceeding five hundred thousand dollars, passing to those  
10 persons in sub-section (b), section two, at the rate of seven *per*  
11 *centum* of the market value of such interest in such property;  
12 (c) Upon all in excess of fifty thousand dollars, up to and  
13 not exceeding five hundred thousand dollars, passing to those  
14 persons in sub-section (c), section two, at the rate of eight *per*  
15 *centum* of the market value of such interest in such property;  
16 (d) Upon all in excess of fifty thousand dollars, up to and  
17 not exceeding five hundred thousand dollars, passing to those  
18 persons in sub-section (d) of section two, at the rate of nine and  
19 one-half *per centum* of the market value of such interest in such  
20 property;  
21 (e) Upon all in excess of five hundred thousand dollars, pass-  
22 ing to any persons in any of the classes in section two enumer-  
23 ated, at the rate of ten *per centum* of the market value of such  
24 interest in such property.

#### *Transfers of Property; Non-residents*

Sec. 6. The provisions of this act shall apply to the transfer  
2 of the following property belonging to deceased persons, non-  
3 residents of this state, which shall pass by will or inheritance  
4 under the law of any other state, or country, and such property  
5 shall be subject to the tax imposed by this chapter, to-wit:

6 (a) The transfer of all real estate and tangible personal prop-  
7 erty including money on deposit in this state;

8 (b) The transfer of all intangible personal property, includ-  
9 ing bonds, securities, shares of stock and choses in action kept  
10 within this state for investment, safe keeping, or otherwise;

11 (c) The transfer of shares of capital stock of all corporations  
12 organized and existing under the laws of this state, the certifi-  
13 cates of which shares of stock shall be within or without this  
14 state.

15 The transfers of property mentioned in sub-divisions (a) and  
16 (b) and the transfer of shares of stock mentioned in sub-division  
17 (c) of this section, after the decease of the person owning the  
18 same, shall not be legal until the inheritance tax, or transfer  
19 tax, has been paid into the state treasury and certificates of re-  
20 lease to that effect executed by the state tax commissioner. No  
21 corporation organized or existing under the laws of this state,

22 bank or trust company, having money on deposit, or other per-  
23 son having in his possession property mentioned in said sub-  
24 divisions (a), (b) and (c) shall make transfer thereof, unless  
25 notice of the time of such intended transfer is served upon the  
26 state tax commissioner at least fifteen days prior to such trans-  
27 fer, or until the state tax commissioner shall consent, in writing,  
28 thereto. Any such corporation, bank, or trust company, or  
29 other person having in his possession such property, before the  
30 inheritance tax is paid, or before official consent of the state  
31 tax commissioner thereto is obtained, shall be liable to the state  
32 of West Virginia for such amount of inheritance tax as may be  
33 collectible upon the transfer, together with any interest that  
34 may accrue thereon and in addition thereto, a penalty of five  
35 hundred dollars, which liability for such tax and interest and  
36 penalty may be enforced by a proper action in the name of the  
37 state of West Virginia, excepting as hereinafter provided in  
37-a case of reciprocal exemption.

38 The tax imposed by this act in respect of personal property  
39 (except tangible personal property having an actual *situs* in  
40 this state) shall not be payable; (a) if the transferor at the  
41 time of his death was a resident of a state or territory of the  
42 United States, or of any foreign country, which at the time  
43 of his death did not impose a transfer tax or death tax of any  
44 character in respect of property of residents of this state (ex-  
45 cept tangible personal property having an actual *situs* in each  
46 state or territory or foreign country), or, (b) if the laws of the  
47 state, territory or country of residence of the transferor at the  
48 time of his death contained a reciprocal exemption provision  
49 under which non-residents were excepted from transfer taxes  
50 or death taxes of every character in respect of personal prop-  
51 erty (except tangible personal property having an actual *situs*  
52 therein), *provided*, the state, territory or country of residence  
53 of such non-residents allowed a similar exemption to residents  
54 of the state, territory or country of residence of such trans-  
55 feror. For the purposes of this section the District of Columbia  
56 and possessions of the United States shall be considered terri-  
57 tories of the United States.

58 The terms "foreign country" and "country" as used herein  
59 shall mean both any foreign country and any political sub-  
60 division thereof, and either of them of which the transferor was  
61 domiciled therein at the time of his death.

62 For the purposes of this section, intangible personal property  
63 means incorporeal property, including money, deposits in banks,  
64 mortgages, debts, receivables, shares of stock, bonds, notes, cred-  
65 its, evidences of an interest in property and evidences of debt.

66 Where a deceased person was a non-resident at the time of  
67 death, and owned property within this state, or within its juris-  
68 diction, and also in other states, or countries, the exemptions  
69 provided for in section two-b of this chapter, shall be operated  
70 according to the value of the property in this state, or within its  
71 jurisdiction, and the property in other states, or countries, and  
72 the person whose duty it is under this chapter to file with the  
73 state tax commissioner a report of the value and distribution of  
74 the property taxable hereunder, shall also include in said report  
75 the total value of the property owned by the deceased at the  
76 time of his death.

77 All acts and parts of acts inconsistent herewith are hereby  
78 repealed.

## CHAPTER 58

(Senate Bill No. 15—By Mr. Hugus)

AN ACT to promote the general welfare of the state of West Virginia by providing for the development of water power for the production and sale to the public of hydro-electric energy, and in furtherance thereof and incident thereto and among other things; authorizing the granting of licenses for water power development to certain corporations and conferring rights of eminent domain on such corporations engaged in such development, production and sale; making such corporations public service corporations, subject to regulation and control by the public service commission; making the governor of West Virginia a member of the commission authorized to grant, amend, and modify such licenses; imposing an annual charge payable to the state; providing for the taking over by the state of the properties useful for such development, production and sale; regulating the construction of dams and other structures included in such development; imposing fines and penalties for violation of the provisions hereof; reserving to the state of West Virginia the right to develop any streams, or parts

thereof, on which no rights have been granted to others or on which such rights have been legally terminated; and repealing chapter eleven of the acts of one thousand nine hundred and thirteen and chapter seventeen of the acts of one thousand nine hundred and fifteen and all other acts and parts of acts inconsistent with the provisions of this act, except as to existing licenses or permits heretofore granted under said act of one thousand nine hundred and thirteen as so amended and except as to applications for licenses or permits thereunder.

[Passed March 7, 1929; in effect from passage. Approved by the Governor.]

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| <p>SEC.</p> <p>1. Policy of state to encourage water power development; control of, through public service commission; right of riparian owner.</p> <p>2. Definitions.</p> <p>3. Power of commission; governor to be member; terms of license granted by commission; how and when license may be granted; records of commission.</p> <p>4. Period of license; extension; violations of act by licensee; procedure.</p> <p>5. Voluntary transfer of license; approval of commission required.</p> <p>6. Conditions required in license: duties of licensee; taking over of property and rights of licensee by state; preference as to use of power and energy to be given consumers in this state; lease by licensee.</p> <p>7. Reimbursement of licensee by others obtaining benefits.</p> | <p>8. Power of eminent domain by licensee, conditions, limitations and provisions.</p> <p>9. Limitations on right of eminent domain.</p> <p>10. Provisions as to navigable and floatable streams; log-chutes, fish ladders.</p> <p>11. Rights of corporations previously chartered.</p> <p>12. Taking water from reservoirs of licensees by municipalities or public service corporation.</p> <p>13. Appeals from decision granting or refusing license, etc.; procedure.</p> <p>14. Development by state of projects not licensed.</p> <p>15. Penalties for violation of provisions of act.</p> <p>16. Licenses for private enterprises; no right of eminent domain.</p> <p>17. Provisions of act separable.</p> <p>18. Provisions as to prior water power legislation.</p> <p>19. Inconsistent acts repealed.</p> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. This act shall be known and cited as the "Water Power Act." All waters within the state shall be under the control and supervision of the state. In order to conserve and utilize the energy of the power streams it is hereby declared to be the policy of the state to encourage water power development. It shall be the aim to secure for a given stream or watershed the greatest proper and practicable utilization of the power of such stream or watershed. The control and regulation on the part of the state of the development of water power shall be exercised through the agency of the public service commission of the state of West Virginia under this act. *Provided, however,* that nothing contained in this act shall deprive any riparian owner, whether natural person or corporation, of any right, or interfere with his exercise of the

14 same, except by due process of law or upon the exercise of  
15 eminent domain as granted and limited in this act and upon  
16 the payment of adequate compensation for any such right, or  
17 interference.

Sec. 2. Unless the context otherwise requires or a specific  
2 provision shall expressly provide otherwise, the words defined  
3 in this section shall have the following meanings for the pur-  
4 poses of this act, to-wit:

5 "State" means the state of West Virginia.

6 "Commission" means the public service commission of the  
7 state of West Virginia or any officer or body hereafter author-  
8 ized by law to exercise the powers or perform the duties now  
9 or hereafter conferred and imposed by law upon the public  
10 service commission.

11 "Corporation" means any corporation organized under the  
12 laws of this state or organized under the laws of any other state  
13 in the United States and authorized to transact business and  
14 hold property in this state and which shall be authorized by its  
15 charter or by an amendment thereof to engage in the business  
16 of supplying to the public water, electricity, light, heat, or  
17 power, or any thereof; and shall also include any corporation  
18 now owning a public carrier interstate railroad in this state  
19 desiring to produce hydro-electric power for supplying water,  
20 light, heat or power for its own use, but any such railroad cor-  
21 poration shall be subject, under this act, to only such of its  
22 provisions as relate to the securing of a license and the approval  
23 of its plans for its dam or dams and to the construction thereof  
24 and the location of its plants. "Corporation" may also include  
25 "municipalities" as hereinafter defined.

26 "Municipality" means any incorporated city, town or village  
27 in this state.

28 "Municipal purposes" means and includes all purposes with-  
29 in municipal powers as defined by the constitution or laws of  
30 this state.

31 "Project" means a complete unit of improvement or devel-  
32 opment of the water power of a stream or watershed, including  
33 one or more dams and/or one or more generating stations and  
33-a their appurtenant works and structures.

34 "Project works" means the physical structures of a project.

35 "License" means a grant in the name of the state issued by  
36 the commission under this act, authorizing the licensee to con-

37 struct, operate and maintain a project on or along any of the  
38 waters within this state and for the purpose in this act men-  
39 tioned to exercise the right of eminent domain as granted and  
40 limited in this act.

41 "Licensee" means a corporation which has received a license  
42 under this act and, as regards such license, shall include lawful  
43 successors and assignees of such corporation and by virtue of  
44 its license such licensee shall become and be a public service  
45 corporation and as such shall be subject to all the laws of the  
46 state applicable thereto, except as herein otherwise provided.

47 "Power site" means the lands, property and rights necessary,  
48 useful or convenient for the construction, maintenance and  
49 operation of a project, including the lands, property and rights  
50 within or pertaining to the area likely or liable to be flooded or  
51 damaged, as may be located within this state.

52 Acquisition by the "exercise of the right of eminent domain"  
53 and by "condemnation" and all words and phrases of like  
54 import used herein, shall include every interference with the  
55 ownership, possession, enjoyment, or value of private property;  
56 and the word "owner," as so used, shall extend to all persons  
57 interested in such property, as proprietors, tenants, lienors,  
58 incumbrancers, or otherwise.

Sec. 3. The commission is hereby authorized and empow-  
2 ered—

3 (a) To make investigations and to collect and record data  
4 concerning the utilization of the water resources of any region  
5 proposed for development, including the effect of any proposed  
6 development or utilization upon cities, towns and villages, upon  
7 the prospective development of other natural resources and  
8 upon railroads and other means of transportation.

9 (b) To hold hearings and to order testimony to be taken by  
10 deposition at any place or places designated by the commission  
11 in connection with the application for any license, or the reg-  
12 ulation of rates, service or the making of any investigation or  
13 for the purpose of hearing any objections or remonstrances  
14 against any proposed development or any operations under  
15 this act. All such hearings shall be held by the commission un-  
16 der the laws of the state governing hearings by the commission.

17 (c) To make and prescribe such reasonable rules and regu-  
18 lations as may be necessary to administer the provisions of this  
19 act; to prescribe rules and regulations for the establishment of

20 a system of accounts and for the maintenance thereof by  
21 licensees hereunder; to require them to submit, under oath, at  
22 such time and times as the commission may require statements  
23 and reports including full information as to assets and liabili-  
24 ties, capitalization, investment and reduction thereof, gross  
25 receipts, interest due and paid, depreciation and other reserves,  
26 cost of project, cost of maintenance and operation of the  
27 project, cost of renewals and replacements of the project works,  
28 and as to the depreciation of the project works and as to pro-  
29 duction, transmission, use and sale of power; to employ expert  
30 engineers or other experts or qualified persons to examine and  
31 report upon projects proposed in the application thereof or  
32 upon plans submitted after the issuance of licenses and cover-  
33 ing additional details or succeeding stages of construction and  
34 to supervise the construction and operation of such project  
35 works.

36 (d) To weigh, from the standpoint of the state as a whole  
37 and the people thereof, the advantages and disadvantages  
38 arising therefrom before acting upon any application for a  
39 license; and no license shall be granted until the commission  
39-a shall have determined that the advantages substantially  
39-b exceed the disadvantages; to consider and determine the  
39-c financial ability of the applicant to carry out a proposed  
40 development; to consider and determine whether or not the  
41 proposed scheme of development is reasonably adequate for  
42 the full development of water power resources at the site or  
43 sites proposed in the application; and

44 (e) To issue in behalf of the state and in the name of the  
45 state, and upon such reasonable terms and conditions not in-  
46 consistent with this act as the commission may prescribe, a  
47 license to any corporation such as is described in section two  
48 of this act for the purpose of constructing, operating, and  
49 maintaining dams, water conduits, reservoirs and power houses,  
50 and all other work necessary or convenient for the development  
51 of such power projects and power sites; *Provided*: (1) The  
52 governor of the state of West Virginia shall be a member  
53 of the commission with the same power and vote as the other  
54 members of the commission in the considering of applications  
55 and granting of licenses under this act and all amendments or  
56 modifications thereof; *provided, however*, that the governor  
56-a need not sit with said commission at the hearing of any such

56-b application unless he shall desire to do so, but may acquire  
56-c the information upon which he acts from reading the testi-  
56-d mony taken or from any other source that he may be sat-  
56-e isfied to act upon; (2) each such license shall contain a  
57 provision that it is granted by the state and accepted by the  
58 licensee upon the agreement that all of the provisions, terms  
59 and conditions set forth in this act and in said license shall  
60 constitute and be a contract between the licensee and the state  
61 and that any successor or assignee of the rights of the licensee,  
62 whether by voluntary transfer, judicial sale, foreclosure sale  
63 or otherwise, shall be subject to and bound by all such pro-  
64 visions, terms and conditions as though such successor or as-  
65 signee were the original licensee; and further said license shall  
66 not become effective unless within ninety days after the receipt  
67 of notice from the commission that the license has been granted,  
68 the licensee shall file with the commission an acceptance in  
69 writing of all the terms and conditions of this act and the license  
70 granted, and of such further conditions, if any, as the commis-  
71 sion shall prescribe in conformity with this act,—said accep-  
72 tance to be in such form as may be prescribed by the commis-  
73 sion; (3) before any hearing upon any application shall be held  
74 by said commission the corporation applying for a license shall  
75 first give notice of such application and of the date and place  
76 fixed by the commission for the hearing thereon, by publication  
77 of said notice once in each week for four successive weeks in  
78 two newspapers of general circulation published in the county  
79 or counties wherein the water power development is proposed  
80 to be made, if there be such, and in addition thereto the appli-  
81 cant shall cause written or printed notices to be posted at least  
82 four weeks prior to the date of such hearing at the front door of  
83 the court house of such county or counties and at fifty places  
84 within the areas that are intended to be flooded by such devel-  
85 opment and also by the service of said notice upon the state  
86 road commission, the county court of any such county, and all  
87 railroad and other public utility corporations owning or leasing  
88 land of record within the area proposed to be flooded at least  
89 four weeks before the date fixed for such hearing,—said notice  
90 upon said railroad and other public utility corporations shall be  
91 served in the manner provided by the laws of the state for the  
92 service of a summons commencing suit against such  
93 a corporation, either resident or non-resident. However, the

94 commission shall have no power to grant a license for the devel-  
95 opment of a project hereunder unless all generating plants  
96 thereof using water impounded within the state are located.  
96-a wholly within the state.

97 (f) To require each applicant to file with its application  
98 all such maps, plans, specifications, estimates of costs and other  
99 information as may be required for a full understanding of the  
100 proposed project. Such maps, plans and specifications when  
101 approved by the commission shall be filed in its office;  
102 and thereafter no change shall be made in said maps,  
103 plans or specifications until such changes shall have been ap-  
104 proved by the commission. *Provided, however,* that if  
105 the application be for a license for a project to be con-  
106 structed in two or more stages, the applicant shall prior  
107 to the granting of the license be required to submit such  
108 plans for the first stage of the project as if it were the  
109 only stage to be constructed and as to the major structures  
110 proposed for succeeding stages shall be required to furnish  
111 only such plans as the commission may require. After  
112 a license, if any, has been granted and before beginning con-  
113 struction upon any major structures, including the dam or  
114 dams, of a second or any other succeeding stage, the licensee  
115 shall, from time to time, as the commission may require, sub-  
116 mit plans in such further detail as will enable the commission  
117 or its engineers to pass upon the adequacy and safety of such  
118 additional structures. The succeeding stages of a project may  
119 involve the construction of additional dams, generating sta-  
120 tions or other structures or they may involve the enlargement  
121 of dams, generating stations or other structures, previously  
122 constructed. The commission shall from time to time define  
123 the limits of any power site or sites and, as circumstances  
124 change, and may authorize or require reasonable changes in  
125 the plans of any project or of any structure of the project.

126 (g) No priority of location or appropriation shall be recog-  
127 nized by the commission in its consideration of any application  
128 for a license under this act. Whenever two or more applica-  
129 tions are in conflict the commission shall, if it grant a license  
130 on any such application, grant such license to that applicant  
131 whose proposed scheme of development is best adapted to the  
132 full utilization of the water power resources at the site or sites  
133 proposed in its application, is not inconsistent with the com-

134 prehensive development of the water power resources of the  
135 stream or streams affected by the proposed development and  
136-170 is to the best interest of the state.

171 (h) To examine and audit the books of the corporation at  
172 such reasonable intervals as the commission may determine  
173 and at all reasonable times to have free access to such project  
174 addition or betterment and to all maps and contracts, reports,  
175 of engineers and other papers and documents relating thereto.

176 (i) To exercise in the name of the state through the agency  
177 of the commission, the full police power of the state in so far  
178 as the same may be necessary in the matter of the safety of  
179 dams constructed or operated, partially constructed or being  
180 constructed or operated under the provisions of this act. In  
181 granting licenses and approving plans for dams and other  
182 structures to be constructed under the provisions of this act,  
183 the commission shall hold the safety of human life of first  
184 and highest importance. *Provided, however,* nothing in this  
185 act contained shall involve any personal liability on the part  
186 of any member of the commission or any of its representatives  
187 nor create any liability on the part of the state or the com-  
188 mission for damages resulting from or growing out of the  
189 construction, maintenance or operation of any such dam; and,  
190 *provided, further,* that nothing in this act contained shall be  
191 construed to exempt or release any licensee from any common  
192 law or statutory liability for damages occasioned to the prop-  
193 erty of others by the construction, maintenance or operation  
194 of such project or project works.

195 (j) To regulate the rates and charges for service to consum-  
196 ers of electricity and other power produced by any licensee  
197 hereunder and to regulate accounts of such licensees, all as pro-  
198 vided by chapter fifteen-o of the code of West Virginia and all  
199 acts amendatory thereof. All such rates, charges and tolls for  
200 electricity and other power produced by any licensee shall be  
201 just and reasonable, and in fixing any rate hereunder the com-  
202 mission shall consider the rate or rates charged by the licensee  
203 or its affiliated corporations for power produced hereunder  
204-211 and sold without state.

212 (k) The commission shall cause to be kept proper records  
213 of all investigations, hearings, rules and regulations, inter-  
214 pretations, reports, costs, and all other data relating to all ap-  
215 plications for licenses, the granting or refusing thereof, the

216 development of all such projects, and operations under such  
217 licenses, all of which the commission shall cause to be kept in  
218 adequate fire-proof vaults or containers; and the commission  
219 shall perform any and all acts, make such rules and regulations  
220 and issue such orders not inconsistent with this act and the  
221 laws of the state as may be necessary and proper for the pur-  
222 pose of carrying out the provisions of this act.

Sec. 4. Licenses under this act shall be granted for a period  
2 not exceeding fifty years from and after the date of the filing  
3 of the acceptance thereof.

4 At the expiration of such original license period the com-  
5 mission may grant an extension, or extensions, of the term of  
6 such license for an additional period or periods; no one of  
7 which shall exceed a further term of fifty years. From and  
8 after the expiration of the original term, or of any extension,  
9 or extensions, thereof, the licensee, subject to all the applicable  
10 provisions of the original license, shall hold the property and  
11 rights acquired under the authority of this act under indeter-  
12 minate license, which indeterminate license shall continue until  
13 purchase by the state as hereinafter provided, or until other-  
14 wise terminated by due process of law.

15 In the event any licensee shall violate any of the provisions  
16 of this act, or of its license, the commission may institute pro-  
17 ceedings in the circuit court of Kanawha county, in the name  
18 of the state, for the purpose of compelling the licensee to  
19 comply with the provisions of this act, or of the license, or for  
20 the purpose of revoking the right of the licensee to proceed  
21 further under the license, or as to a specified portion, or por-  
22 tions, of the project included in the said license. The said  
23 circuit court of Kanawha county is hereby given jurisdiction  
24 for the above purposes by injunction, mandamus, or other  
25 proceedings, and is empowered to issue and have executed all  
26 necessary process and to make and to enforce all writs, orders  
27 and decrees necessary and proper to compel compliance by  
28 licensee with the lawful orders and regulations of the commis-  
29 sion, and to compel the performance of any condition imposed  
30 under the provisions of this act and/or of said license. If a decree  
31 is entered by the said court revoking the right of the licensee to  
32 proceed further with the project under license, or similarly with  
33 respect to a specified portion or portions of the project under  
34 license, the court is empowered to sell at public sale to the

35 highest responsible bidder the property and rights of said  
36 licensee necessary to the use of the power site or power sites  
37 included in such project or such specified portion or portions  
38 thereof; to bring to a close the business of the licensee con-  
39 ducted directly in connection with such project or such speci-  
40 fied portion or portions thereof; to distribute the proceeds to  
41 parties entitled thereto and to make and enforce such further  
42 or other orders and decrees as equity and justice may require.  
43 At such sale or sales the vendee shall succeed to the rights  
44 and privileges of the licensee with respect to such project or  
45 such specified portion or portions thereof and shall perform  
46 all the duties of the licensee under the license and assume all  
47 such outstanding obligations and liabilities of the licensee  
48 which the court may deem equitable in the premises. The  
49 state may become a purchaser at such sale.

Sec. 5. No voluntary transfer of any license, or of the  
2 rights thereunder granted shall be made without the approval  
3 of the commission by an order duly entered of record; and any  
4 successor or assignee of the rights of such licensee, whether by  
5 voluntary transfer, judicial sale, foreclosure sale, or otherwise,  
6 shall be subject to all of the conditions, rights and obligations  
7 of the license under which such rights are held by such licensee,  
8 and also subject to all the provisions and conditions of this act  
9 to the same extent as though such successor or assignee were the  
10 original licensee hereunder; *Provided*, that the making of a  
11 mortgage or trust deed or a sale thereunder or judicial sale  
12 made hereunder, or tax sale, shall not be deemed a voluntary  
13 transfer within the meaning of this section.

Sec. 6. All licenses issued under this act shall be on the  
2 following conditions:

3 (a) That the project adopted, including the maps, plans  
4 and specifications, shall be such as, in the judgment of the  
5 commission, will be best adapted to a comprehensive scheme  
6 of improvement and utilization for the purpose of water power  
7 development in the state and of other beneficial uses.

8 (b) In addition to the annual license tax provided in chapter  
9 thirty-two of the code of West Virginia, and to all other taxes  
10 and assessments, every licensee shall pay to the state an annual  
11 charge for the privilege of exercising the rights granted under  
12 this act, which charge shall be based upon the amount of horse-  
13 power of water wheel capacity, rated at the average effective

14 head, installed from time to time in the project which is the  
15 subject of the license. Payment of such charge shall begin  
16 with January one following the beginning of operation of the  
17 said capacity and shall be made to the state tax commissioner  
18 annually thereafter prior to March one. It shall be computed  
19 at the rate of ten dollars per each one hundred horse-power,  
20 or major fraction thereof, *provided*, that, in order to encourage  
21 the utmost practicable utilization of the potential water power  
22 of any development, the total number of horse-power which  
23 shall be subject to such charge in the case of any water power  
24 development shall not exceed that corresponding to the utiliza-  
25 tion of the average stream flow at the intake. Such maximum  
26 shall be determined prior to the issuance of the license and shall  
27 be stated therein. It shall be computed or result from the  
28 product of (1) the average stream flow in cubic feet per second  
29 at the intake; (2) the average static head in feet; and (3)  
30 the factor 0.08 (eight one-hundredths). If any licensee shall  
31 fail to pay such charge annually prior to March one, the state  
32 tax commissioner shall proceed to collect the same by any  
33 appropriate means, with interest at the rate of ten *per*  
34 *centum per annum* from said March one and with a penalty  
35 of ten *per centum* added thereto. Such charge shall be a lien  
36 in favor of the state on all property of the license within the  
37 state, superior to all other liens thereon except liens for taxes  
38 due the state or some subdivision thereof. All such charges,  
39 interest and penalties collected by the state tax commissioner  
40-78 shall be paid by him into the state treasury.

79 (c) That the licensee shall pay to the state the reason-  
80 able costs incurred by the commission for the services  
81 and expenses of engineers, especially engaged and as-  
82 signed to the work of investigation and supervision as provided  
83 in this act, which amount shall be fixed by the public service  
84 commission by apportionment upon a reasonable basis among  
85 applicants and licensees subject to such investigation and  
86 supervision, and the amount so determined shall be and con-  
87 stitute assessments of a governmental nature. In the case of  
88 an applicant for a license, the payment of such assessment may  
89 be made a condition precedent to the consideration by the com-  
90 mission of said application. In the case of a licensee, the  
91 amount of such assessment shall be certified by the secretary  
92 of the commission to the licensee and to the state auditor, as

93 shall also the date fixed by the commission for payment of such  
94 assessment. The licensee shall pay the amount of the assess-  
95 ment to the state treasurer within the time so fixed. If the  
96 licensee fails to pay any such assessment within such time, the  
97 amount to be paid may at the discretion of the state auditor  
98 be increased by a penalty of ten *per centum*. Such assessment  
99 shall constitute a lien in favor of the state on all the property  
100 of the licensee, shall be superior to all other liens excepting  
101 liens for taxes and shall be collectible by the state auditor in  
102 the same manner that taxes due the state are collectible. The  
103 amounts of such assessments paid into the state treasury shall  
104 constitute a special fund to be expended from time to time on  
105 order of the commission for the purposes for which such as-  
106 sessments were made and such amounts as may from time to  
107 time be paid into the treasury are hereby appropriated for  
108 such purposes.

109 (d) That the licensee shall commence the construction of  
110 the project within the time fixed in the license, which shall not  
111 be more than one year after the date of the approval by the  
112 commission of the detailed plans for the construction or en-  
113 largement of a dam, generating station, or other major struc-  
114 ture of a project, and shall thereafter, in good faith and with  
115 due diligence, prosecute such construction, and shall within  
116 the time fixed in the license, not more than five years, complete  
117 and put into operation, at the least, such part of the ultimate  
118 development as the commission shall deem necessary to supply  
119 the reasonable needs of the then available market, and shall  
120 from time to time thereafter construct such portion of the  
121 remainder of such development as the commission may direct,  
122 so as to supply adequately the reasonable market demands  
123 until such development shall have been completed. The period  
124 for the commencement of construction may be extended once,  
125 but not longer than one additional year. The period for the  
126 completion of construction, carried on in good faith and with  
127 reasonable diligence, may be extended by the commission when  
128 not incompatible with the public interests. In case the licensee  
129 shall not commence actual construction of the dam, generating  
130 station or any specified part thereof within the time pre-  
131 scribed in the license or as extended by the commission then,  
132 after due notice given, the license may be terminated upon  
133 written order of the commission. In case the construction of

134 such a structure has been begun, but not completed, within  
135 the time prescribed by the license or as extended by the com-  
136 mission, then the commission shall institute proceedings for  
137 the revocation of said license, the sale of the work constructed  
138 and other equitable relief, as provided for in section four  
139 hereof.

140 (e) That upon not less than five years notice in writing  
141 from the commission, and upon due authorization by the legis-  
142 lature of the state and after payment as hereafter in this  
143 section provided, the state shall have the right upon or after  
144 the expiration of any license or any extension thereof to take  
145 over at the fair value thereof and thereafter maintain and  
146 operate all of the property and rights of the licensee appur-  
147 tenant or accessory and valuable and serviceable to the project  
148 which is the subject of the license. In addition to the fair  
149 value of the property taken, the state shall pay to the licensee,  
150 before taking possession of said property, such reasonable  
151 damages, if any, caused to the valuable and serviceable prop-  
152 erty of the licensee not taken, as may be caused by the sever-  
153 ance therefrom of the property taken; and the state may  
154 assume all the contracts for electric energy and power entered  
155 into by the licensee under the terms of this act relating to the  
156 property and rights so taken by the state, provided said con-  
157 tracts have been approved by the commission and shall not  
158 extend for more than ten years beyond the date of expiration  
159 of such license or any extension thereof. The fair value of said  
160 property and rights to be taken over by the state and the  
161 amount of damages, if any, caused by such severance shall be  
162 determined by a board of appraisers of whom one appraiser  
163 shall be selected by the commission and one by the licensee  
164 and in case of disagreement the two thus selected shall select  
165 a third; if, in event of such disagreement, the said two ap-  
166 praisers are likewise unable to agree in selecting a third  
167 appraiser, then upon application of either appraiser, after  
168 thirty days' notice to the other appraiser, the supreme court  
169 of appeals shall appoint the third appraiser; *provided*,  
170 that if the supreme court of appeals shall refuse or  
171 fail to appoint said third appraiser, then upon application  
172 of either appraiser after thirty days' notice to the other  
173 appraiser, the governor shall appoint the third appraiser.  
174 If either the commission or the licensee shall fail

175 or refuse to appoint its appraiser as aforesaid, then after  
176 thirty days' notice by the other appraiser, or by the com-  
177 mission or licensee, as the case may be, the governor shall  
178 appoint said second appraiser. The determination of the  
179 majority shall be considered *prima facie* the just compensation  
180 therefor. In making such determination the board of appraisers  
181 shall make no allowance for unreasonable costs of financing,  
182 for promoters profits or for the value of the license or  
183 of any franchise, rights or privilege granted by the state  
184 or any political subdivision thereof or any intangible values  
185 arising therefrom. From the decision of said appraisers de-  
186 termining the fair value of said property and rights to be  
187 acquired by the state and the amount of the severance dam-  
188 ages as aforesaid, either the commission or the licensee may,  
189 within ninety days after notice of such determination, appeal  
190 to the circuit court of Kanawha county and may appeal from  
191 the decision of said circuit court to the supreme court of  
192 appeals within ninety days from the time the de-  
193 cision of the circuit court is rendered. Such appeals  
194 shall be by petition and shall be allowed as a matter of right.  
195 The hearing before said circuit court shall be as a trial *de*  
196 *novo*; *provided, however*, that the original record before the  
197 appraisers duly certified by them, or by any two of them, shall  
198 be received in evidence and used in connection with any addi-  
199 tional evidence offered by either party. After hearing, the  
200 circuit court shall fix and determine the fair value of such  
201 property and rights and the amount of severance damages as  
202 aforesaid and enter its order and judgment accordingly. In  
203 case of appeal to the supreme court of appeals the same shall  
204 be upon the record in the circuit court in the usual manner  
205 and that court shall enter such judgment or order as the cir-  
206 cuit court should have entered.

207 (f) Under all licenses, excepting those of railroad corpora-  
208 tions licensed solely for their own use, the reasonable needs for  
209 electric power and energy on part of the state and consumers  
210 in this state who can reasonably be served by the licensee shall  
211 have preference as compared with the needs of others, and the  
211-a commission shall have power to enforce this provision by ap-  
211-b propriate orders.

212 (g) There shall be reserved to the state of West Virginia the  
213 right to regulate and supervise the amount and flow of im-

214 pounded water, in connection with the operation of any dam  
215 or dams, in order to carry into effect any program of flood  
216-218 control which may be adopted by the state.

219 (h) Any licensee may at any time and from time to time,  
220 with the approval of the commission, lease for all or such por-  
221 tion of the duration of its license and on such conditions as  
222 may be approved by said commission, to any person, firm or  
223 corporation engaged in any manufacturing enterprise in this  
224 state and for use only in connection with such manufacturing  
225 enterprise, any portion, up to but not exceeding fifty per cent  
226 of the water power and/or electrical capacity owned, held  
227 and/or controlled by such licensee, which approval may, upon  
228 application therefor by the corporation applying for such  
229 license, be granted at the time of the granting of such license  
230 and may be incorporated therein; nothing herein contained  
231 shall, however, be deemed or construed to limit the amount or  
232 portion of electrical energy produced by any licensee that may  
233 be sold or delivered to any consumer, distributor or transmitter  
234 of electrical energy.

Sec. 7. Any corporation, including a licensee, and any  
2 municipality or person, utilizing or obtaining benefit from any  
3 increase in flow above the natural flow of a stream or streams  
4 by reason of the impounding of the water of any stream or  
5 streams by a licensee, shall, whenever such utilization or benefit  
6 is for the production of power or energy, reimburse such  
7 licensee for such part as may be equitable of the annual carry-  
8 ing charges of such impounding. Such reimbursement shall  
9 be made in such reasonable proportions and amounts, at such  
10 times and under such conditions as the commission may from  
11 time to time determine and order. But nothing in this para-  
12 graph contained shall be construed to require such licensee to  
13 regulate and maintain a flow or supply of water above the  
14 natural flow for the benefit of such other corporation, munici-  
15 pality or person.

Sec. 8. In addition to the power of eminent domain which it  
2 may have under existing law and *except as provided in section*  
3 *nine of this act*, any licensee may acquire by the exercise of the  
4 right of eminent domain all the lands, property, or rights of  
5 others necessary to the construction, maintenance or operation  
6 of any dam, reservoir, diversion structure, or the works appur-  
7 tenant or accessory thereto, or any power site or project included

8 in said license, or transmission lines or substations; *provided*,  
9 *however*, that, except for purposes of crossing, said right of  
10 eminent domain under this section shall not be available for the  
11 purpose of condemning any lands, property or rights essential  
12 for railroad purposes and now actually being used to serve the  
13 public by any public-carrier interstate railroad, or any location  
13-a or part of a location adopted by such interstate railroad com-  
13-b pany for the construction of an extension of its interstate line  
13-c or branch thereof, and upon which authority to construct such  
13-d extension or branch shall have been granted by the interstate  
13-e commerce commission at the time such right of eminent do-  
13-f main is sought to be exercised; subject however, to the fol-  
14 lowing conditions, limitations and provisions:

15 (a) Due compensation to the owner of the land, property  
16 or rights taken, or damaged, shall be made in the manner pro-  
17 vided by law. The proceedings for the condemnation of such  
18 property shall be brought in the county wherein such property  
19 is situated and shall be in accordance with chapter forty-two  
20 of the code of West Virginia. As to any part or all of the  
21 real estate sought to be taken for any of the purposes author-  
22 ized in this act such licensee may describe in its application for  
23 condemnation an estate or interest therein of a fee or less than  
24 a fee and upon payment therefor such estate or interest as is  
25 stated and described in such application shall vest in the  
26 licensee; but when less than a fee is taken the commissioners  
27 and jury in assessing damages shall take into consideration  
28 the actual damage that is done or that may be done to the fee  
29 by such taking, including the use to which the property so  
30 taken will be put by such licensee and the commissioners or jury  
31 assessing damages shall, if such property so taken or property  
32 contiguous thereto be underlaid with coal, limestone, fire-clay  
33 sand, or other natural resources, including all minerals, either  
34 solid liquid or gaseous, take into consideration, and assess just  
35 compensation therefor and in addition such damages that may  
36 be caused to the residue of the tract or tracts or to such con-  
37 tiguous property by reason of interference with the mining  
38 and removal of said natural resources affected thereby upon  
39 either the residue or such contiguous lands, or the interference,  
40 if any, with the ingress and egress to and from the said natural  
41 resources remaining in the residue of such tract or tracts and  
42 such contiguous property necessary in the development thereof.

42-*a* (b) Such right of eminent domain shall extend throughout  
43 the term of the license and may be exercised from time to  
44 time in connection with subsequent stages of construction of  
45 a project, including the enlargement of earlier stages or  
46 structures.

47 (c) Subject to the paramount requirement that no interfer-  
48 ence may be permitted which would harmfully affect the health  
49 of the public and/or the interests of navigation and except  
50 as provided in section nine hereof, this act shall be held  
51 to authorize interference occasioned by any dam or other  
52 structure of a licensee with the flow of water down stream  
53 therefrom, but only under the supervision and control  
54 of the commission. When by reason of such interference,  
54-*a* any property or riparian right or any part thereof or  
55 interest therein is destroyed or damaged, the licensee subject  
56 to the approval of the commission is hereby vested with the  
57 right of eminent domain for the purpose of acquiring such  
58 property, right or interest so destroyed or damaged, or of as-  
59 certaining and paying just compensation for any such damage;  
60 *provided, however,* that before so taking or interfering with  
61 the natural flow of water down stream on any stream upon  
62 which any oil or gas power or pumping station, refinery or  
63 gasoline plant, is dependent for its supply of water, and in  
64 lieu of ascertaining and paying such just compensation for  
65 any such damage, the licensee at the election of the owner  
66 or owners of such power or pumping station, refinery  
67 or gasoline plant, shall be required by the commission  
67-*a* to agree so to construct and operate such proposed water  
68 power project as to insure to the owner of any such power or  
69 pumping station or refinery, or provide from some other source  
70 at its own cost and expense, an equally reliable and convenient  
71 and otherwise equivalent supply of water. *Provided, further,*  
72 that nothing in this act shall be construed so as to allow such  
73 licensee to impound water on any property which is condemned  
74 under the provisions of this act, unless the fee estate in such  
75 property (other than coal, oil and gas rights therein which will  
75-*a* not be destroyed or materially damaged by such impounding)  
75-*b* has been condemned and paid for under the provisions here-  
75-*c* of. In the exercise of the right to procure a right of way for  
75-*d* the transmission line over or under the right of way of any  
75-*e* public utility railway, pipe line, power line, telegraph or tele-

75-f phone company, or other power corporation, the licensee shall  
75-g proceed in the manner provided for other corporations, in  
75-h section eleven of chapter fifty-two of the code of West Vir-  
75-i ginia; but no such crossing shall be constructed except in the  
75-j manner approved by the commission.

75-k All waters confined in reservoirs by licensees under this  
75-l act shall be and remain public waters, and nothing herein  
75-m shall be so construed as to prevent the free access to and  
75-n from and the free use by the public of the waters in such  
75-o reservoirs and other waters within the project of any licensee,  
75-p or the free access to and from and the riparian use of such  
75-q waters by the owner of lands contiguous to the lands ac-  
75-r quired by condemnation under this section or otherwise for  
75-s the purpose of constructing said reservoirs, or prevent free  
75-t access to and from and the use of the water in reservoirs of  
75-u the licensee by railway companies as provided in section  
75-v fourteen of chapter fifty-two of the code of West Virginia,  
75-w which section is neither repealed nor in any way amended  
75-x by this act.

76 (d) Nothing in this act contained shall, as to the state of  
77 West Virginia, or any political sub-division thereof, or as to  
78 any public service corporation, other than a water power  
79 licensee, limit or prevent the exercise of the right of eminent  
80 domain, now existing or hereafter conferred by law, with re-  
81 spect to any power site, or any part thereof; and the right of  
82 eminent domain as to power sites, or any part thereof, is here-  
83 by expressly conferred upon such governmental agencies and  
84 such public service corporations except as such right is limited  
85 and restricted by section nine of this act; *provided, however,*  
86 that such right of eminent domain shall not be exercised in be-  
87 half of any such public service corporations in a manner or to  
88 an extent such as materially to impair or interfere with the  
88-a use of such power site for such development of water power.

89 (e) Such land, property and rights so subject to condemna-  
90 tion shall include all necessary lands, property and rights  
91 whether or not such lands, property or rights have been there-  
92 tofore appropriated or devoted to public use or have been  
93 sought to be so appropriated or devoted, including, but not  
94 restricted to, the lands, property and rights necessary for any  
95 diversion, regulation or detention, or interference with the flow  
96 of waters and for any waterways and including, also, but not

97 restricted to, any lands, structures or property owned, used  
98 or held for public or private religious, charitable, educational  
99 or cemetery purposes, any streets or alleys, or portions thereof,  
100 in incorporated or unincorporated cities and towns and any  
101 public or private roads and bridges and any other public prop-  
102 erty and also any public or private railway, pipe and wire lines  
103 or quasi-public means of transportation or communication,  
104 when necessary for construction, maintenance or operation of  
105 such project except as to public carrier interstate railroads as  
106 hereinbefore provided; *provided, further*, that, in the event of  
107 the condemnation under this act of any roads or bridges, the  
108 commissioners or jury, in assessing the compensation and dam-  
109 ages therefor, shall consider the cost of relocating and con-  
110 structing such roads or bridges upon other reasonably conven-  
111 ient locations; and for the purpose of re-locating any railway,  
112 pipe line, wire line, road or bridge occupying the area on which  
113 any such water power development or enlargement thereof is  
114 to be located, such licensee may acquire by the exercise of the  
115 right of eminent domain any needful additional lands or other  
116 property, whether within or without the area upon which the  
117 said water power development or enlargement thereof is to be  
118 located, and shall have the right for such purpose to convey  
119 and shall convey such lands or other property or rights so ac-  
120 quired to the owner of such railway, pipe line, wire line, road  
121 or bridge.

122 (f) In exercising the said right of eminent domain over  
123 private railway or wire lines, the licensee, in lieu of acquiring  
124 such private railway or wire lines, or any part thereof, may  
125 elect to flood the location of and raise or relocate any such rail-  
126 way or wire lines and in the case of any public-utility tele-  
127 phone, telegraph or power transmission lines, said exercise  
128 of the right of eminent domain shall be limited to the right  
129 to flood the location of and raise or relocate such public-  
130 carrier railway or public-utility lines. *Provided, further*, that  
131 the exercise of the right of eminent domain in order to flood  
132 the location of and raise or relocate any public-carrier steam,  
133 electrical or other public-carrier railway which is subject to the  
134 jurisdiction of the interstate commerce commission, or the  
135-6 public service commission of this state, in addition to being  
137 confined to the limits of power sites as such may be defined  
138 from time to time by the commission, shall be further limited

139 by the proviso that in so doing no such railway may be de-  
140 stroyed until such licensee has first constructed and deeded to  
141 the railway company an alternate line of railway complete in  
142 all its parts, such as telegraph and telephone lines, signals,  
143 whether operated by electrical or other power, side-tracks,  
144 buildings and all other components of the railway that may  
145 be affected in any wise by the change of location. The sub-  
146 stitute line shall be as convenient and safe as to line curvature  
147 and grade and in every way suitable to handle properly and  
148 economically the business which might otherwise be handled  
149 over the line which is to be destroyed. This alternate line of  
150 railway shall be substantially constructed in accordance with  
151 the standard practice governing the contemporaneous construc-  
152 tion of railway lines of the same character and capacity, and  
153 the location and construction of the railway and all of its parts,  
154 shall be in accordance with plans approved by the chief en-  
155 gineer of said railway and the chief engineer of the licensee.  
156 In the event such engineers can not agree upon the plans or  
157 construction of the substitute line, they shall select a third  
158 engineer. If, in the event of such failure to agree, the said  
159 two engineers are likewise unable to agree in selecting a third  
160 engineer, then, upon application of either of the said two en-  
161 gineers after fifteen days' notice to the other engineer, the  
162 court in which the condemnation proceedings are brought  
163 shall appoint the third engineer. A majority of such engineers  
164 shall suffice to approve the plans and construction of the sub-  
165 stituting line. The line shall be so built that the railway com-  
166 pany will not be put to any expense by reason of the substi-  
167 tution of this line for the line sought to be destroyed and also  
168 will not be put to any additional expense for maintenance or  
169 operation by reason of any conditions affecting the change of  
170 line or by any changes in water courses, or by reason of slides,  
171 or by other damages that might be caused by the submergence  
172 of the banks of the new line.

173 (g) In exercising the said right of eminent domain over  
174 any public utility oil or gas pumping station, refinery, or gas-  
175 oline plant, or over lands on which same are located or water  
175-a rights used in the operation of said station, refinery or plant  
175-b or over public utility oil or gas gatherings transportation or  
176 supply pipe lines, or tanks, telephone or telegraph lines or other  
177 facilities or equipment used in connection with the transporta-

178 tion or supply storage or refining of oil or gas, such exercise of  
179 the right of eminent domain shall be limited to the right to  
180 flood the location of, and to raise or relocate any such pumping  
181 station, refinery, or gasoline plant, pipe lines or facilities or  
182 equipment; and no such property shall be taken, damaged or  
183 destroyed until the owner thereof shall have had a reasonable  
184 time (to be fixed by the court in which the proceeding is pend-  
185 ing) to raise or relocate and reconstruct or replace such prop-  
186 erty. The compensation to the owner of such property shall  
187 include the cost and expense of procuring the necessary substi-  
188 tute sites, and the cost of all labor and material and other cost  
189 necessary to raise or relocate and replace or reconstruct such  
190 property, less the fair salvage value of the tangible property  
191 that may be recovered from the existing plant; and such com-  
192 pensation shall also include any consequential damages which  
193 the owner may sustain to other property not condemned, or in  
194 order properly to connect other property or plants to the  
195 property relocated hereunder; and in case any such relocation  
196 or reconstruction of plant shall necessitate an increase in oper-  
197 ating expenses or maintenance costs, the compensation shall  
198 also include such additional amounts as will fully compensate  
199 for the same.

200 The owner, in lieu of having his compensation include the  
201 value of lands, water rights, rights-of-way and easements (ex-  
202 clusive of building and structures thereon) used in connection  
203 with the properties mentioned in this clause, may elect, by a  
204 writing filed in the proceeding at any time within ten days after  
205 the confirmation of a report, or the rendering of a verdict ascer-  
206 taining compensation, to require the licensee at its own expense  
207 to procure and convey to the owner such lands, water rights,  
208 rights-of-way and easements as may be proper substitute for  
209 lands, water rights, rights-of-way and easements proposed to be  
210 taken. In case the parties can not agree upon such proper sub-  
211 stitutes, the same shall be ascertained by engineers in the man-  
212 ner provided in clause (f) of this section. On motion of either  
213 party the court shall require said engineers to file their findings  
214 in court and the licensee shall thereupon be required to procure  
215 such substitute lands, water rights, rights-of-way and easements  
216 and grant and convey the same to the owner before further  
217 steps are taken in the proceeding. Following such conveyance,

218 the report or verdict theretofore found or recorded, shall be set  
219 aside by the court and the licensee may thereupon amend its  
220 application so as to set forth that it has secured such substitute  
221 lands, water rights, rights-of-way and easements and has grant-  
222 ed and conveyed the same to the owner; whereupon the court  
223 shall again appoint commissioners to proceed as provided in  
224 chapter forty-two of the code of West Virginia, to ascertain a  
225 just compensation to the owner excluding the value of lands,  
226 water rights, rights-of-way and easements for which sub-  
227 stitutes have been provided; which compensation shall cover all  
228 the elements of damage hereinbefore mentioned, so far as they  
228-a continue to exist.

229 (g-a) The exercise of the right of eminent domain over public  
230 utility telephone or telegraph lines shall be confined to the  
231 limits of power sites as such limits shall be defined from time  
232 to time by the commission and shall be limited to the right to  
233 flood the location of and to relocate any such public utility  
234 telephone or telegraph lines; *provided, however*, that the li-  
235 censee shall, as a condition precedent to condemnation at its  
236 own expense procure and convey to the owner of such public  
237 utility telephone or telegraph line such lands, rights-of-way,  
238 and easements as may be reasonably necessary and be a proper  
239 substitute for and in so far as possible of the same convenience  
240 and usefulness as the lands, rights-of-way and easements pro-  
241 posed to be taken, and in any condemnation proceedings from  
242 the compensation and damages allowed said owner for property  
243 taken and damage done, there shall be deducted the fair value  
244 of the lands, rights-of-way and easements so procured and con-  
245 veyed by the licensee not in excess of the value of the land,  
246 rights-of-way and easements taken and for which the same is  
247 substituted. Such compensation shall also include any con-  
248 sequential damages which the owner may sustain to other  
249 property not condemned, or in order properly to connect other  
250 property to the property relocated hereunder; and in case any  
251 such relocation or reconstruction of plant shall necessitate an  
252 increase in operating expenses or maintenance costs, the com-  
253 pensation shall also include such additional amounts as will  
254 fully compensate for the same.

255 (h) The licensee shall have the right to acquire by condem-  
256 nation any lands or other property, whether within or without  
257 the limits of such power sites, necessary for the purpose of

258 relocating any railway, power station, or pipe line or wire line,  
258-a or public-utility telephone or telegraph line, as provided in  
259 the three immediately preceding sub-sections, and for such pur-  
260 pose to convey such lands or other property to the owner of  
261 such railway, power station or pipe or wire line.

262 (i) Any licensee or any applicant for a license may, through  
263 its officers, agents or employees, and under such rules as may  
264 be prescribed by the commission, enter upon any lands for the  
265 purpose of examining and testing or surveying and laying out  
266 the same as any agent authorized by such licensee or applicant  
267 may deem necessary, such licensee or applicant to be responsi-  
268-306 ble to the owner for actual damage done. Any licensee is  
307 empowered to acquire by condemnation any lands and rights-  
308 of-way necessary for the purpose of constructing roads or rail-  
309 ways for the transportation of materials and equipment re-  
310 quired or useful in the construction, operation or maintenance  
311 of the structures of the project, including any appurtenant  
312 transmission lines and sub-stations; also to acquire by con-  
313 demnation the right to use any lands necessary for or useful  
314 in the construction or maintenance of the structures of the  
315 project. The licensee shall also have the right by its officers,  
316 agents or servants, to enter upon any convenient lands for  
317 the purpose of obtaining therefrom wood, stone, gravel or  
318 earth necessary to be used in the construction or maintenance  
319 of the structures of the project, subject, however, to the same  
320 limitations and requirements as are placed upon companies  
321 incorporated for the purpose of building a railroad, as set  
322 forth in section fourteen of chapter fifty-two of the code of  
323 West Virginia and in accordance with the procedure provided  
324 in such section.

325 (j) The right of eminent domain over public and private  
326 cemeteries shall be exercised only within the limits of a power  
327 site or sites, as such limits may be defined from time to time  
328 by the commission. Under such circumstances the licensee  
329 shall also have the right and authority to acquire by condemna-  
330 tion other lands for the purpose of removing the bodies and  
331 monuments or other structures from such public or private  
332 cemeteries to such other lands. All of the rights of the owner  
333 in and to lands in such cemeteries shall pass to and vest in  
334 the licensee and title to the lands acquired for the removal  
335 of said cemeteries shall vest in the former owners of the ceme-

336 teries so condemned or in the holders of the legal title thereto.  
337 Before the licensee may flood such cemeteries it shall remove  
338 the bodies and monuments or other structures to the lands  
339 acquired for such purpose and re-enter the bodes and reset  
340 the monuments under the direction and to the satisfaction of  
341 the circuit court in which such condemnation proceedings are  
342 brought. If the parties in interest fail to agree as to the  
343 location and area of the additional lands to be acquired in  
344 which to re-enter the bodies and on which to reset the monu-  
345 ments and other structures, the same shall be determined by  
346 the said circuit court.

347 (k) In the event that the amount of compensation allowed  
348 by the commissioners or a jury in condemnation proceedings  
349 respecting the right to flood or otherwise use public roads,  
350 bridges, or ferries and the approaches thereto, is unsatisfac-  
351 tory to the licensee, then the licensee, subject to the approval  
352 of the plans therefor by the commission, may elect to raise or  
353 to make a reasonable and proper relocation of such roads,  
354 bridges or ferries and the approaches thereto, for which pur-  
355 pose it shall have the right of eminent domain for the use of  
356 the county court or the state road commission and may so  
357 raise or relocate or construct new roads, bridges, or ferries  
358 and the approaches thereto, in compliance with any order  
359 which may be entered in relation to such raising, relocation  
360 or construction by the county court of the county in which  
361 such roads, bridges or ferries, and the approaches thereto, are  
362 located, or by the state road commission, in conformity with  
363 the plans approved by the commission, as aforesaid, with the  
364 right of appeal on the part of the licensee from any such order  
365 of said county court or the state road commission to the  
366 circuit court of said county and with the right of appeal on  
367 the part of the county court, the state road commission or  
368 the licensee from the order of the circuit court, within sixty  
369 days from the date of entry of such order, to the supreme  
370 court of appeals of the state. When the raising, relocation  
371 or construction of such road, bridge or ferry, and the ap-  
372 proaches thereto, is completed, the title and control of such  
373 raised, relocated or new road, bridge or ferry, and the ap-  
374 proaches thereto, shall immediately vest in the county court  
375 or the state road commission, as may be directed by the cir-  
376 cuit court, and the circuit court upon a finding of the fact

377 of such completion and vesting of title and control shall enter  
378 in the condemnation proceedings a final order vesting title and  
379 control of said original road, bridge or ferry and the ap-  
380 proaches thereto in the licensee without the payment of any  
381 other compensation or damages in said condemnation pro-  
382 ceedings.

383 (l) The right to acquire by eminent domain any lands,  
384 easements and other property and rights for the purpose of  
385 constructing, operating and maintaining towers, poles and  
386 overhead and underground cables, wires and lines for the  
387 transmission, supply and sale of electric power and energy,  
388 whether produced by water or steam as a motive force, and for  
389 the construction, operation and maintenance of substations in  
390 connection with such transmission lines is hereby vested in such  
391 licensees, subject to the limitation that the licensee shall have  
392 no right to acquire for a substation site by condemnation any  
393 private residence nor any out-house, garden or orchard within  
394 the curtilage of a private residence or the right-of-way of any  
395 public service corporation, and subject to the further limita-  
396 tion that, except for the purposes of crossing, the licensee shall  
397 have no right, without consent, to construct, maintain and  
398 operate towers, poles and wire lines upon that part of the right-  
399 of-way of any public-service railway, pipe line, electric power,  
400 telephone or telegraph company which is necessary for the  
401 exercise of the corporate franchise of such company. Such  
402 licensee shall further have the right to acquire by agreement  
403 with the county court or courts or by agreement with the state  
404 road commission or by condemnation the right to erect, main-  
405 tain and operate wire lines over or across public roads. The  
406 licensee shall have no right under this or any other section of  
407 this act to construct, maintain or operate any towers, poles or  
408 transmission lines so as to interfere with the safety, operation  
409 or efficiency of any existing public-service electric power, tele-  
410 phone or telegraph line, or of any telephone or telegraph lines  
411 or electric or other signal appliances of any common-carrier  
412 railroad company. The licensee may further exercise the right  
413 of eminent domain where necessary in order to remove any  
414 trees, or portions thereof, which by reason of close proximity  
415 to transmission lines or rights-of-way may endanger such trans-  
416 mission lines. In the exercise of the right to procure a right-  
417 of-way for a transmission line crossing over or under the right-

418 of-way of any public-service railway, pipe line, electric power,  
419 telegraph or telephone company, the licensee shall proceed in  
420 the manner provided for other corporations in section eleven  
421 of chapter fifty-two of the code of West Virginia.

Sec. 9. Notwithstanding any provision of this act, no licensee  
2 shall, by the exercise of the right of eminent domain, acquire  
3 any land, property or right comprised in any existing hydro-  
4 electric power development which, at the time this act shall go  
5 into effect, had an installed capacity in excess of one thousand  
6 horsepower, or except for transmission line crossings, acquire  
7 any land, property or right of a power site included in a license  
8 of any other licensee, or included in a license or permit, or in an  
9 application for a license or permit pending at the time this act  
10 shall go into effect, of a licensee or permittee, or an applicant in  
11 such application for a license or permit, under chapter eleven  
12 of the acts of one thousand nine hundred and thirteen as amend-  
13 ed and re-enacted by chapter seventeen of the acts of one thou-  
14 sand nine hundred and fifteen, and no licensee shall impound,  
15 divert or discharge the waters of any river or stream in any way  
16 that will, except as contemplated by the provisions of section  
17 seven of this act and except for the impounding or detention of  
18 flows in excess of the average stream flow which obtains at the  
19 point or points of such impounding, diversion or discharge and  
20 except for the discharge of such impounded or detained flows,  
21 interfere with any right of the owner of any such existing hydro-  
22 electric power development or with any right comprised in or  
23 appurtenant to a power site included in a license of any other  
24 licensee hereunder or included in any license or permit or in any  
25 such application pending as aforesaid for a license or permit  
26 under chapter eleven of the acts of one thousand nine hundred  
27 and thirteen as amended and re-enacted by chapter seventeen  
28 of the acts of one thousand nine hundred and fifteen, without  
29 the consent of such owner or such other licensee or such licensee  
30 or permittee, or such applicant for a license or permit; provided  
31 that nothing herein shall be construed to impair the common  
32 law riparian rights of any licensee or any such licensee or  
33 permittee or applicant.

Sec. 10. Nothing contained in this act shall be so construed  
2 as to interfere with the exercise of jurisdiction by the govern-  
3 ment of the United States over navigable streams. In the case  
4 of a dam located across a stream which is navigable-in-fact, the

5 licensee shall make provisions for navigation as is required  
6 by the secretary of war of the United States. In the case  
7 of a dam located across a stream which under the laws of West  
8 Virginia is flodable, the licensee shall install, maintain and  
9 operate in connection with such dam without expense to the  
10 state or any citizen thereof such raft-chute, log-chute, booms,  
11 sluices or other devices in aid of floatability as may reasonably  
12 in the interest and for the convenience of the public, be required  
13 by the commission and in accordance with the plans approved  
14 by the commission. In any dam more than thirty-feet in height  
15 no provision need be made for the passage of fish. *Provided,*  
16 *however,* that nothing in this act contained shall prevent the  
17 public from fishing or boating on the reservoir constructed by  
18-22 the licensee.

23 It is hereby made the duty of said commission to protect and  
24 preserve the public rights of navigation with respect to any  
25 stream the navigability of which will be affected by the flow of  
26 the waters of any stream upon which a license shall be granted  
27 under the laws of this state, and said commission is hereby  
28 vested with full power to make and enforce all necessary orders  
29 for such purpose.

Sec. 11. Any corporation which had the charter powers  
2 specified in section two of this act, which had in good faith  
3 located a dam for its purposes, together with the probable  
4 contour lines of the water proposed to be impounded thereby  
5 and which had actually expended as much as fifty thousand  
6 dollars in the construction of said dam, on or before May  
7 twenty-second, one thousand nine hundred and thirteen, shall,  
8 as shall also its lessees, successors, receivers, trustees or assigns,  
9 have as to such dam and the land and property within said con-  
10 tour lines all the rights and powers conferred by this act to the  
11 same extent as if such corporation were a licensee and shall  
12 have such rights and powers without filing an application and  
13 obtaining a license and without any defining of the limits of  
14 the power site by the commission. The commission, shall, how-  
15 ever, have full power to require any such changes in any con-  
16 structed portions of the dams, and to specify such design and  
17 methods of construction for any portions of the dam still to be  
18 constructed, as may be necessary for the protection of life and  
19 property. *Provided, however,* that any such corporation may  
20 apply to the commission for a license hereunder and, if such

21 license be granted and accepted as herein provided, such cor-  
22 poration shall thereafter be subject to all the provisions hereof,  
23 including the payment of annual charge.

Sec. 12. For the use of any municipality of this state or  
2 of the inhabitants thereof, any municipality or any public  
3 service corporation authorized to supply water to a munici-  
4 pality or to the inhabitants thereof may by purchase or con-  
5 demnation proceedings under such regulations as the commis-  
6 sion may prescribe, take water from the reservoir or reservoirs  
7 constructed and maintained by any licensee. *Provided, how-*  
8 *ever,* that when any project interferes with the existing water  
9 supply of any municipality, the said municipality, or public  
10 service corporation supplying water thereto, shall be entitled  
11 to take water, not in excess of the natural flow of the stream,  
12 from said stream, reservoir or reservoirs free of cost.

Sec. 13. Any corporation such as is described in section two  
2 of this act or any licensee or any other party to the record  
3 feeling aggrieved by any decision of the commission granting  
4 or refusing to grant any license, defining the limits of a power  
5 site or refusing or failing to define such limits or to define such  
6 limits with sufficient extent or by any other final decision or  
7 order of the commission may appeal therefrom, within sixty  
8 days after such decision is made and entered, to the circuit  
9 court of Kanawha county with trial *de novo* in said circuit  
10 court and either or any party to the record may appeal  
11 from the decision of said circuit court to the supreme court  
12 of appeals within sixty days from the time the decision of  
13 the circuit court is rendered. Such appeals shall be by  
13-a petition, and shall be allowed as a matter of right by  
14 said circuit court. The order of the circuit court granting an  
15 appeal shall require bond payable to the state to be executed  
16 before the clerk of said court in the penalty of five hundred  
17 dollars, with security thereto to be approved by such clerk, and  
18 conditioned for the payment of costs in the circuit court and also  
19 in the supreme court in case the decision appealed from should  
20 not be reversed. In case of reversal by the circuit court or  
21 supreme court on any such appeal, the case shall be remanded  
22 to the commission for further proceedings in accordance with  
23-28 the decision of the court. For the purpose of such appeal  
29 to the circuit court and the hearing thereof the original record  
30 before the commission, duly certified, shall be used in connec-

31 tion with any additional evidence offered by any party in in-  
32 terest and the appeal to the supreme court shall be upon the  
33 record in the circuit court in the usual manner. All such ap-  
34 peals shall be decided without delay. Mandamus shall lie to  
35 compel the commission to act upon any application for license  
36 or other matter proper for said commission to decide, and to  
37 render without unnecessary delay any decision from which an  
38 appeal lies.

Sec. 14. Nothing in this act contained shall abridge the  
2 right of the state to determine, through the legisla-  
3 ture of the state, to develop in the name of the state, any  
4 project or projects on which no license or licenses have thereto-  
5 fore been granted by the commission or on which any license  
6 or licenses so granted have been legally terminated. The right  
7 to alter, amend or repeal this act is hereby expressly reserved;  
8 but no such alteration, amendment or repeal shall affect any  
9 license or permit theretofore granted under the provisions of  
10 this or any former act or the right of any such licensee or per-  
11 mittee thereunder. The provisions, terms and conditions of any  
12 license may be altered or amended at any time by mutual con-  
13 sent of the licensee and the commission to the extent such alter-  
14 ation or amendment is not in conflict with the then existing law  
15 of the state.

Sec. 15. Any licensee, or any person who shall wilfully fail  
2 or who shall refuse to comply with any of the provisions of  
3 this act, or with any of the conditions made a part of any  
4 license issued hereunder, or with any regulation or lawful  
5 order of the commission, shall be deemed guilty of a misde-  
6 meanor, and on conviction thereof shall, in the discretion of  
7 the court, be punished by a fine of not exceeding five thousand  
8 dollars, in addition to penalties herein prescribed, or provided  
9 by law; and each month any such licensee or any such person  
10 shall remain in default, after written notice from the commis-  
11 sion, shall be deemed a new and separate offense punishable as  
12 aforesaid.

Sec. 16. The commission shall have power to grant licenses  
2 hereunder to private persons or corporations for the generation  
3 of electric power and energy to be used by them in private en-  
4 terprises; but nothing herein shall be construed to confer on  
5 such private persons or corporations the right of eminent do-  
6 main, but before any such license is granted, the commission

7 shall consider the best development for the interests of the  
8 state and may grant such licenses with such conditions with  
9 reference to further development of water power as to said  
10 commission may seem best.

Sec. 17. The sections, provisions and clauses of this act  
2 shall be deemed separable each from the other, and also in  
3 respect to the persons, firms and corporations mentioned therein  
4 or affected thereby, and if any separable part of this act be,  
5 or be held to be unconstitutional or for any reason invalid or  
6 unenforceable, the remaining parts thereof shall be and remain  
7 in full force and effect.

Sec. 18. Notwithstanding any provision of this act to the con-  
2 trary appearing any and all permits or licenses granted under  
3 chapter eleven of the acts of one thousand nine hundred and  
4 thirteen as amended and re-enacted by chapter seventeen of  
5 the acts of one thousand nine hundred and fifteen (said chapter  
6 eleven as amended and re-enacted by said chapter seventeen be-  
7 ing herein referred to as the Water Power Act of 1915) shall be  
8 and remain in full force and effect in accordance with the pro-  
9 visions of such permits or licenses and the provisions of the  
10 water power act of one thousand nine hundred and fifteen, ex-  
11 cept that in lieu of the annual royalty and the manner of basing  
12 and measuring the same provided for by sections twenty-two,  
13 twenty-three, twenty-four and twenty-five of the water power act  
14 of one thousand nine hundred and fifteen there is hereby fixed  
15 the annual charge provided for by section six of this act to be  
16 determined and assessed by the commission in accordance with  
17 the provisions of said section six; and any application for a  
18 license or permit made under the water power act of one thou-  
19 sand nine hundred and fifteen and pending at the time this act  
20 shall go into effect shall, in accordance with the provisions of  
21 the water power act of one thousand nine hundred and fifteen  
22 or in accordance with the provisions of this act, as the applicant  
23 in such application shall elect by filing written notice of such  
24 election with the commission, remain in full force and effect, be  
25 heard and determined by the commission and be capable of the  
26 issuance therefrom or granting thereon of a permit or license,  
27 except that, with respect to any such permit or license thus  
28 granted, in lieu of the annual royalty as provided for in sections  
29 twenty-two, twenty-three, twenty-four and twenty-five of the  
30 water power act of one thousand nine hundred and fifteen, the

31 annual charge provided for by section six of this act shall be  
 32 assessed and collected; and any permittee or licensee in any per-  
 33 mit or license heretofore or hereafter granted under the pro-  
 34 visions of the water power act of one thousand nine hundred  
 35 and fifteen or under the provisions of this act with respect  
 36 thereto may if it so elects and shall certify to the commission  
 37 such election by filing with the commission notice in writing  
 38 thereof become, at such time prior to the expiration of its said  
 39 permit or license as it shall in such notice in writing designate,  
 40 entitled to all the rights, privileges and benefits of this act and  
 41 subject to all the provisions thereof as though the permit or  
 42 license held by such licensee had been a license granted under  
 43 and in accordance with the provisions of this act.

Sec. 19. Chapter eleven of the acts of one thousand nine  
 2 hundred and thirteen as amended and re-enacted by chapter  
 3 seventeen of the acts of one thousand nine hundred and fifteen  
 4 (known as the water power act) and all other acts and parts of  
 5 acts inconsistent with this act are hereby repealed, except as  
 6 otherwise provided in section eighteen of this act.

## CHAPTER 59

(Senate Bill No. 24—By Mr. Hugus)

AN ACT to amend and re-enact section twenty of chapter fifteen-o  
 of Barnes' one thousand nine hundred and twenty-three code  
 of West Virginia, so as to permit common carriers to grant free  
 transportation to persons devoting their whole time to religious  
 work.

[Passed February 21, 1929; in effect from passage. Approved by the Governor.]

SEC.

20. To whom common carriers may  
 furnish free transportation, in-

cluding persons devoting their  
 whole time to religious work.

*Be it enacted by the Legislature of West Virginia:*

That section twenty of the one thousand nine hundred and thir-  
 teen acts of the legislature, the same being section twenty of chap-  
 ter fifteen-o of Barnes' one thousand nine hundred and twenty-  
 three code of West Virginia, be and the same is hereby amended  
 and re-enacted to read as follows:

Section 20. Nothing in this act shall be construed to prevent  
 2 any common carrier from furnishing free transportation to its  
 3 officers, attorneys, agents and employees, and their families,  
 4 and like free transportation to the officers, attorneys, agents and  
 5 employees of other common carriers and their families, mail  
 6 clerks, expressmen and sleeping car conductors and porters,  
 7 and reduced rates to all persons engaged in religious, charitable  
 8 and literary pursuits, and for excursions, and for children and  
 9 students attending schools and colleges, and for commutation  
 10 tickets; and, *provided, further*, that nothing in this act shall  
 11 be construed to prevent telephone, telegraph, sleeping car and  
 12 express companies from entering into contracts with one an-  
 13 other, and with common carriers for the exchange of service,  
 14 or from exchanging with one another and with common car-  
 15 riers, the privileges of passes or franks for the officers, agents,  
 16 employees and their families, of such companies and common  
 17 carriers; and, *provided, further*, that all railroads and com-  
 18 mon carriers may grant free transportation according to their  
 19 own regulations to persons devoting their whole time to religious  
 20 work.  
 21 All acts and parts of acts inconsistent herewith are hereby  
 22 repealed.

## CHAPTER 60

(Senate Bill No. 46—By Mr. Smith of Marion, by request)

AN ACT to protect the trees, shrubbery, flowers, and including  
 everything under the titles of flora and fauna, in and about  
 and along the public roads of the state of West Virginia, and  
 to preserve the beauty of the natural scenery in and along said  
 roads:

[Passed February 13, 1920; in effect ninety days from passage. Approved by the  
 Governor.]

Sec.

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| <p>1. Unlawful to damage trees, flowers,<br/>         etc., growing within one hundred<br/>         yards of a public road without<br/>         permission.</p> <p>2. Unlawful to have same in posses-</p> | <p>sion.</p> <p>3. Public service companies may keep<br/>         tracks, lines, etc., free from in-<br/>         terference.</p> <p>4. Penalties for violation of act.</p> |
|--|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That it shall be unlawful to break, cut or take or carry away or, in any manner to damage any of the trees, shrubbery or flowers and including everything under the title of flora and fauna, whether wild or cultivated, growing within one hundred yards, on either side of any public road in the state of West Virginia, without the permission of the owner or owners of record, the agent or tenants of the land upon which said trees, shrubbery, or flowers, including everything under the title of flora and fauna shall be growing.

Sec. 2. It shall be unlawful for any person wilfully or knowingly to have in his possession or to haul along any public road in the state of West Virginia, any trees, shrubbery or flowers, including everything under the title of flora and fauna, which are protected by this act, unless such person so having in his possession or hauling the same shall have permission so to do from the owner, agent or tenant of record of the land from which the same have been taken.

Sec. 3. Nothing herein contained shall be construed as affecting public service companies operating under franchise, their agents or employees, to keep the railway tracks, lines, wires or other equipment free from interference in the satisfactory operation of their properties or the right of the public authorities in the maintenance of the public roads under their jurisdiction and control.

Sec. 4. Any person who shall violate any of the sections of this act shall be guilty of a misdemeanor and upon conviction thereof for the first offense shall be fined not more than fifty dollars and for subsequent offenses shall be confined in the county jail for not more than three months, or fined not more than fifty dollars, or both for each offense, and justices of the peace shall have concurrent jurisdiction with the circuit and criminal or intermediate courts of the several counties.

## CHAPTER 61

(Senate Bill No. 48—By Mr. Hugus)

AN ACT to authorize the establishment by counties, cities, towns and villages of airports and landing fields and authorizing one or more counties, cities, towns and villages to join with other

counties, cities, towns and villages in the establishment of joint airports and landing fields and authorizing counties, cities, towns and villages to lay levies for the purpose of acquiring, leasing, maintaining, constructing and operating airports and landing fields; and to provide for the general supervision and government of aviation in West Virginia, including the defining of qualifications for operating aircraft in the state of West Virginia; and providing penalties for the violation of this act.

[Passed February 13, 1929; in effect ninety days from passage. Approved by the Governor.]

**Sec.**

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| <p>1. Definition.</p> <p>2. Counties or municipalities may establish and operate airports.</p> <p>3. How necessary real property for airport acquired.</p> <p>4. How maintained and operated; fees for use.</p> <p>5. Airports maintained jointly; abandonment of.</p> <p>6. Levies for.</p> <p>7. When federal license required.</p> | <p>8. Who may inspect certificate of license.</p> <p>9. When aircraft must be registered.</p> <p>10. Penalties for violation of preceding sections.</p> <p>11. Penalties for avigating while intoxicated.</p> <p>12. Penalty for avigating over city, etc., at low altitude.</p> <p>13. Penalty for unauthorized taking of aircraft.</p> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. When used in this article, "aircraft" means any contrivance, now or hereafter invented, for avigation of or flight in the air, except a parachute or other contrivance designed for use, and carried primarily for safety equipment; "avigation" means the steering, directing or managing of an aircraft, in or through the air, and such term is here used as a substitute for "aerial navigation"; "operating aircraft" means performing the services of aircraft pilot, avigator, mechanic, rigger, or other person actively engaged in maintaining an aircraft in flight.

Sec. 2. Any county, city, town or village may establish, lease, construct, equip, maintain and operate for such county, city, town or village, an airport or landing field for the use of aeroplane and other aircraft and may acquire or lease for such purpose real property within or without such county, or within or outside the corporate limits of such city, town or village, or may set apart and use for such purpose real property owned by the county, city, town or village, which is not needed for any other public use, however such real property was acquired.

The county court or local legislative body of such county, city, town or village may direct or employ an appropriate officer, board or body of such county, city, town, or village to locate, to

13 establish, construct, equip, maintain and operate for such  
14 county, city, town or village, such airport or landing field, but  
15 the site so located and the establishment, construction, equip-  
16 ment, maintenance and operation must be approved by the  
17 county court or local legislative body, as the case may be.

Sec. 3. Real property necessary for such airport or landing  
2 field may be acquired by gift, or by purchase if such county,  
3 city, town or village is able to agree with the owners of such  
4 real property on the terms thereof, and otherwise by condemna-  
5 tion, in the manner provided by law under which such county,  
6 city, town or village is authorized to acquire real property for  
7 public use. The purchase price or award for any property  
8 acquired for airport or landing field purposes may be paid for  
9 by appropriation of moneys available therefor or wholly or  
10 partly from the proceeds of sale of bonds of such county, city,  
11 town or village, as the county court or local legislative body  
12 shall determine, subject, however, to the general provisions of  
13 law for the issuance and sale of bonds of counties and munici-  
14 palities for public purposes generally.

Sec. 4. The county court or local legislative body of such  
2 county, city, town or village, which has established an airport  
3 or landing field and leased, acquired, or set apart real property  
4 for such purpose and constructed and equipped the same for  
5 operation as an airport or landing field, may vest jurisdiction  
6 for the improvement, maintenance and operation thereof in  
7 any suitable officer, board or body of such county, city, town  
8 or village, subject, however, to the approval of such county  
9 court or local legislative body. The expense of the construction,  
10 improvement, equipment, maintenance and operation shall be  
11 a county, city, town or village charge, as the case may be. The  
12 county court or local legislative body of the city, town or vil-  
13 lage may adopt regulations and establish fees or charges for  
14 the use of such airport or landing field or may authorize the  
15 officer, board or body of such county, city, town or village hav-  
16 ing jurisdiction to adopt such regulations and establish such  
17 fees and charges, subject, however, to the approval of such  
18 county court or local legislative body, before they shall take  
19 effect.

Sec. 5. One or more counties, cities, towns or villages may  
2 join with one or more other counties, cities, towns and/or vil-  
3 lages for the purpose of acquiring, leasing, equipping, con-

4 structing, maintaining and operating an airport or landing  
5 field. Any such airport or landing field may be established at  
6 such point as the legislative bodies in the county, or counties,  
7 city or cities, town or towns, village or villages joining therein  
8 may agree upon and such county or counties, city or cities,  
9 town or towns, village or villages may raise by levy or other-  
10 wise as provided herein in this act funds for the purpose of  
11 acquiring, leasing, constructing, equipping, maintaining, oper-  
12 ating any such airport or landing field, and the counties and  
13 municipalities agreeing upon the proportionate part of the cost  
14 and expense of such airport or landing field to be paid by each  
15 county, city, town and/or village joining therein. The provi-  
16 sions of sections two, three, four, five and six of this act shall  
17 apply to any joint field established under the provisions of  
18 this section.

19 In case any airport or landing field established by the joint  
20 action of any two or more counties, cities, towns and/or villages  
21 acting together under this section is abandoned, such airport or  
22 landing field as owned by such counties, cities, towns and/or  
23 villages may be sold by the approval of the legislative authori-  
24 ties of the counties and municipalities which had joined in its  
25 purchase and distribute the proceeds thereof to the counties  
26 and municipalities in the proportion in which such counties  
27 and municipalities had contributed to the acquisition, mainte-  
28 nance and operation of such airport or landing field. In case  
29 of a failure of the counties and municipalities to agree upon  
30 the disposition of such airport or landing field and the equip-  
31 ment thereon or connected therewith or in its operation or main-  
32 tenance, any one or more of the counties and municipalities  
33 interested therein may bring a suit in the circuit court of the  
34 county in which said airport or landing field or the larger part  
35 thereof is located and upon a trial of the cause, held in the  
36 manner provided by law for other suits in equity, said court  
37 shall make such decree or decrees with reference to the dis-  
38 position of the property, distribution of the proceeds or other  
39 moneys involved as to said court may seem best to the in-  
40 terests of all the parties involved and an appeal to the supreme  
41 court of appeals of West Virginia shall lie as in other equity  
42 suits.

Sec. 6. The local authorities of a county, city, town or vil-  
2 lage to which this act is applicable, having power to appropriate

3 money therein may lay a levy, not to exceed, five cents on each  
4 one hundred dollars of valuation for a period not exceeding  
5 three years and appropriate therefrom funds for the purpose  
6 of acquiring an airport or landing field. Funds necessary for  
7 providing maintenance or operating expenses for such airport  
8 or landing field may be appropriated out of the general funds  
9 of the county or municipality.

Sec. 7. It shall be unlawful for any person to engage in  
2 aviation, either in operating aircraft or otherwise, within this  
3 state in any form of aviation for which license is required by  
4 the United States government, where such aviation is inter-  
5 and not intrastate, unless such person have such license as is  
6 required by the United States government.

Sec. 8. The certificate of the license herein required shall be  
2 kept in the personal possession of the licensee when he is oper-

3 ating aircraft within this state and must be presented for  
4 inspection upon the demand of any passenger, any peace offi-  
5 cer of this state, or any official, manager, or person in charge  
6 of any airport or landing field in this state upon which he  
7 shall land.

Sec. 9. It shall be unlawful for any person to avigate an  
2 aircraft within this state unless such aircraft is registered and  
3 licensed pursuant to the lawful rules and regulations of the  
4 United States government in force at the time, if the circum-  
5 stances of such aviation are of the character that such regis-  
6 tration would be required in the case of interstate aviation.

Sec. 10. A person who violates any provision of either of the  
2 three preceding sections of this chapter shall be guilty of a  
3 misdemeanor and punishable by a fine of not more than five  
4 hundred dollars or by imprisonment for not more than one  
5 year, or both.

Sec. 11. Whoever engages in aviation by operating an air-  
2 craft or otherwise while in an intoxicated condition shall be  
3 guilty of a misdemeanor and punishable by a fine of not more  
4 than five hundred dollars or by imprisonment for not more  
5 than one year, or both. Whoever, while in an intoxicated condi-  
6 tion and engaging in aviation, does serious bodily injury to  
7 another, shall be guilty of felonious assault and the offender  
8 shall, at the discretion of the court, either be confined in the  
9 penitentiary not less than one nor more than five years or be

10 confined in jail for not more than twelve months and fined not  
11 more than five hundred dollars.

Sec. 12. Whoever engages in aviation over any city, town  
2 or village or public gathering elsewhere except at a duly estab-  
3 lished airport or landing field at an altitude of less than twen-  
4 ty-five hundred feet shall be guilty of a misdemeanor, punish-  
5 able by a fine of not more than five hundred dollars or by im-  
6 prisonment for not more than one year, or both.

Sec. 13. Any person who, under circumstances not consti-  
2 tuting larceny as otherwise defined by law, shall, without the  
3 consent of the owner, take, use or operate or cause to be taken,  
4 used or operated any aircraft for his own profit, use or purpose,  
5 steals the same and is guilty of larceny and shall be punishable  
6 accordingly.

## CHAPTER 62

(Senate Bill No. 78—By Mr. White of Wood)

AN ACT to amend and re-enact sections sixteen and seventeen of  
chapter ninety-two of the acts of the legislature of one thou-  
sand eight hundred and eighty-two, being sections sixteen and  
seventeen of chapter forty-seven of Barnes' code of one thou-  
sand nine hundred and twenty-three, relating to terms of  
municipal officers.

[Passed February 5, 1929; in effect ninety days from passage. Became a law  
without the approval of the Governor.]

SEC. 16. Terms of municipal officers; terms of present officers. | 17. Rules and regulations for municipal elections.

*Be it enacted by the Legislature of West Virginia:*

That sections sixteen and seventeen of chapter ninety-two of the acts of the legislature of one thousand eight hundred and eighty-two, being sections sixteen and seventeen of chapter forty-seven of Barnes' code of one thousand nine hundred and twenty-three, be amended and re-enacted so as to read as follows:

Section 16. The officers first elected in such city, town or  
2 village shall hold their offices until their successors are elected  
3 and qualified. The terms of all officers elected after the said  
4 first election shall commence on the first day of July in each

5 year and shall be for one year, and until their successors are  
 6 elected and qualified according to law; *provided*, that the of-  
 7 ficers whose terms began on the first day of February, one thou-  
 8 sand nine hundred and twenty-nine, shall serve in the official  
 9 capacity to which they were elected until the first day of July,  
 10 one thousand nine hundred and thirty, or until their successors  
 11 are elected and qualified, unless such officers are sooner re-  
 12 moved by death, resignation or otherwise.

Sec. 17. After the first election of officers in such corpora-  
 2 tion they shall be elected on every first Tuesday of June, at  
 3 such place in the town or village, and under such supervision,  
 4 rules and regulations, not inconsistent with the laws regulating  
 5 district elections, as the council may prescribe.

## CHAPTER 63

(Senate Bill No. 94—By Mr. Smith of Marion)

AN ACT requiring notice to foreign railroads or other foreign cor-  
 porations of every proposal to grade, pave, curb, or otherwise  
 improve, any street or alley, or to construct any sewer or  
 other drainage, in any city, town or village, to be paid for in  
 whole or in part by any such foreign railroad or other foreign  
 corporation as owner of any property abutting or bounding  
 upon any such street, alley, sewer or other improvement, or  
 whose property abutting or bounding thereon may be assessed  
 with the cost of such improvement in whole or in part; and  
 prescribing that such notice shall be given to the state auditor.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the  
 Governor.]

SEC.

1. Notice by municipality to foreign  
 railroad or other corporation of  
 improvement of street, alley, etc.,

abutting on property of corpora-  
 tion; how notice served; incon-  
 sistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That if the common council or other governing  
 2 body of any city, town or village which has been or may be  
 3 vested with power so to do, either by general law or under  
 4 special act incorporating any such city, town or village, and  
 5 amendments thereto, proposes to order and cause the grading,  
 6 paving, curbing, or other improving of any street or alley, or

7 the construction of any sewer or other drainage, to be paid for  
8 in whole or in part by any foreign railroad or other foreign  
9 corporation as owner of any property abutting or bounding  
10 on such street, alley, sewer or other improvement, or whose  
11 property abutting or bounding thereon may be assessed with  
12 such improvement, in whole or in part, such foreign railroad  
13 company or other foreign corporation shall be given notice of  
14 such proposal by service upon or acceptance by the state au-  
15 ditor at least thirty days before the enactment or adoption of  
16 any ordinance or resolution relating to said work of improve-  
17 ment or declaring the necessity or purpose thereof; which said  
18 notice shall set forth substantially the nature of the work to  
19 be proposed, the extent thereof, its location and the manner of  
20 paying for the same; and no ordinance or resolution shall be  
21 binding upon any such railroad or other foreign corporation  
22 unless such notice shall have been so given.

23 It shall be the duty of the state auditor without delay to  
24 forward by United States mail, every notice served upon him  
25 hereunder to the foreign corporation or corporations desig-  
26 nated in such notice to its latest address on file in his office.  
27 All acts and parts of acts, whether special or general, and  
28 all provisions of any act incorporating any city, town or village,  
29 and amendments thereto, which are in conflict with the pro-  
30 visions of this act, are hereby repealed.

## CHAPTER 64

(Senate Bill No. 111—By Mr. Miller)

AN ACT to amend and re-enact sections four and thirty-seven of chapter thirty-two-*a* of Barnes' code of one thousand nine hundred and twenty-three, as amended and re-enacted by chapter twenty-nine of the acts of one thousand nine hundred and twenty-three; and also to amend and re-enact sections thirty-one, thirty-one-*a* and thirty-one-*b* of said chapter, as amended and re-enacted by chapter one hundred and fifteen of the acts of one thousand nine hundred and twenty-one, relating to the manufacture, sale, storage, possession, transportation and delivery of liquors and of any mixture, compound or preparation intended to be used in violation of the prohibition laws; and of the operation and ownership of moonshine stills; and of

searches, seizures and procedures and to further amend said chapter by enacting as additional thereto one section to be numbered section forty-one, relating to intoxication and the operating of motor vehicles while intoxicated; and providing penalties in relation thereto.

[Passed March 6, 1929; in effect ninety days from passage. Approved by the Governor.]

## SEC.

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|---|--|
| <p>4. Manufacture of non-intoxicating wine and of vinegar and non-intoxicating cider, etc., when not prohibited; when use of alcohol and sale of pure grain alcohol and sherry wine not prohibited; permits for manufacture, sale, etc., form of; fees for; fee for registration of stills; payment of fees into state treasury.</p> <p>31. Unlawful transportation by railroad, bus company, etc., prohibited; penalty for violation.</p> <p>31-a. Unlawful transportation into or in state of certain liquors, malt, etc., prohibited; penalty for violation.</p> <p>31-b. Unlawful sale by non-resident vendor; penalty for violation;</p> | <p>unlawful use of moonshine still; definition; penalties; form of indictment; penalty for possession of moonshine liquor; penalty for unlawful possession of mash; form of indictment for; penalty for second conviction; penalty for unlawful possession of home brew; penalty for second offense; what sections of code govern offenses under this section; bond for felony charge; destruction of stills, etc.</p> <p>41. Penalty for being intoxicated in public place; revocation of license for driving motor vehicle while intoxicated; certification to state road commission.</p> <p>42. Inconsistent acts repealed.</p> |
|---|--|

*Be it enacted by the Legislature of West Virginia:*

That sections four and thirty-seven of chapter thirty-two-a of Barnes' code of one thousand nine hundred and twenty-three, as amended and re-enacted by chapter twenty-nine of the acts of one thousand nine hundred and twenty-three, and also to amend and re-enact sections thirty-one, thirty-one-a and thirty-one-b of said chapter, as amended and re-enacted by chapter one hundred and fifteen of the acts of one thousand nine hundred and twenty-one, relating to the manufacture, sale, storage, possession, transportation and delivery of liquors and of any mixture, compound or preparations intended to be used in violation of the prohibition laws; and of the operation and ownership of moonshine stills; and of searches, seizures and procedure; and to further amend said chapter by enacting as additional thereto one section to be numbered section forty-one, relating to intoxication and the operating of motor vehicles while intoxicated; and providing penalties in relation thereto, be amended, re-enacted and added to, so as to read as follows:

Section 4. The provisions of this act shall not be construed 2 to prevent any one from manufacturing (other than by "moon-3 shine still") from fruit grown exclusively in this state, non-4 intoxicating wine for his own domestic consumption; or to pre-

5 vent the manufacture from fruit grown exclusively within this  
6 state of vinegar and non-intoxicating cider for use or sale; or  
7 to prevent the manufacture and sale of pure grain alcohol, at  
8 wholesale to druggists, hospitals, sanitariums, laboratories, and  
9 manufacturers for medical, pharmaceutical, scientific and me-  
10 chanical purposes, or of wine for sacramental purposes by re-  
11 ligious bodies, or to prevent the sale and keeping and storing  
12 for sale by druggists of wine for sacramental purposes, by re-  
13 ligious bodies, or any United States pharmacopoeia or national  
14 formulary preparation in conformity with the West Virginia  
15 pharmacy law, or any preparation which is exempted by the  
16 provisions of the national pure food law; or to prevent the sale  
17 by druggist, through pharmacists of pure grain alcohol for  
18 medicinal, scientific, pharmaceutical and mechanical purposes;  
19 or to prevent the use of such alcohol by physicians, dentists and  
20 veterinarians in the practice of their profession; or to prevent  
21 the medication and sale of pure grain alcohol according to  
22 formulae and under regulations of the national prohibition act;  
23 or to prevent the purchase and use in the manufacture of med-  
24 icinal preparations and compounds by wholesale druggists only  
25 of sherry wine in quantities not exceeding twenty-five wine  
26 gallons during any period of ninety days; *provided*, that no  
27 one shall manufacture, sell, keep for sale, purchase or trans-  
28 port any liquors, as defined in section one of this act and as  
29 herein excepted without first obtaining a permit from the com-  
30 missioner of prohibition so to do. Forms of application and per-  
31 mits shall be prepared by the commissioner and a fee for each  
32 permit issued shall be collected by him as follows:

33 (a) All manufacturers of liquors and wholesale dealers  
34 herein shall pay a fee of fifty dollars for each permit; (b) all  
35 purchasers in wholesale quantities of ethyl alcohol in any form,  
36 whether pure, medicated, or denatured for use as herein pro-  
37 vided, shall pay a fee of ten dollars for each permit; (c) all  
38 purchasers in wholesale quantities of liquors as defined in sec-  
39 tion one, for sale at retail, except duly licensed druggists, shall  
40 pay a fee of two dollars for each permit; (d) all persons except  
41 duly licensed druggists registering stills and given permits  
42 to use the same for lawful purposes shall pay a fee of five dol-  
43 lars for each permit; *provided*, that any still used only for the  
44 manufacture of chemicals including water in which the process  
45 of distillation is a common and necessary operation, and which

46 still shall not be used for the distillation of ethyl alcohol in any  
47 form, shall be required to be registered but the owner and  
48 operator thereof shall not be required to obtain a permit, there-  
49 for, or to pay license tax thereon. No fee shall be required for  
50 a permit to obtain wine for sacramental or religious rites.

51 Permits shall be issued for the calendar year and shall ex-  
52 pire on the thirty-first day of December next following the  
53 issuance thereof. All moneys received by the commissioner  
54 under this section shall belong to the state and shall be by him  
55 immediately paid into the state treasury; and, *provided, fur-*  
56 *ther,* that such liquors are manufactured, sold, kept for sale,  
57 transported and used under permits issued by the federal pro-  
58 hibition commissioner and in accordance with regulations issued  
59 in pursuance of the "national prohibition act."

Sec. 31. It shall be unlawful for any railroad company,  
2 express company, aerial navigation company, bus company, taxi  
3 company, or any common carrier, or any officer, agent or em-  
4 ployee of any of them, or any other person, to knowingly ship,  
5 carry, transport into, or deliver in this state in any manner or  
6 by any means whatsoever, any malt, brewed, vinous or ferment-  
7 ed liquors, intoxicating liquors, or any mixture, compound or  
8 preparation; whether patented or not and whether intoxicating  
9 or not, to any person, corporation or firm within the territory of  
10 this state when the said liquors, mixture, compounds or prepara-  
11 tion or any of them are intended by any person interested  
12 therein to be received, possessed, sold, or in any manner used,  
13 either in the original package or otherwise in violation of the  
14 prohibition laws of this state.

15 If any one shall violate the provisions of this section he shall  
16 be guilty of a misdemeanor, and upon conviction thereof, shall  
17 be fined not less than fifty nor more than three hundred dollars  
18 for the first offense, and for the second or any subsequent of-  
19 fense he shall be fined not less than one hundred dollars nor  
20 more than five hundred dollars and confined in jail not less than  
21 two nor more than six months. In case any firm, association or  
22 corporation shall violate this section the provisions of section  
23 twenty-seven of chapter thirty-two-a of Barnes' code of one  
24 thousand nine hundred twenty-three shall apply in enforcing  
25 the penalties herein provided.

Sec. 31-a. It shall be unlawful for any person, association  
2 or corporation to order, purchase, sell or cause any malt, brewed,

3 vinous or fermented liquors, intoxicating liquors, or any mix-  
4 ture, compound or preparation, whether patented or not and  
5 whether intoxicating or not, to be transported into this state  
6 or from one place to another within the state when the said  
7 liquors, mixture, compound or preparation or any of them are  
8 intended by any person interested therein to be received, pos-  
9 sessed, sold, or in any manner used, either in the original pack-  
10 age or otherwise in violation of the prohibition laws of this  
11 state. If any one shall violate the provisions of this section, he  
12 shall be guilty of a misdemeanor and upon conviction thereof  
13 the punishment of each offense hereunder shall be the same as  
14 that prescribed for offenses arising under section thirty-one  
15 of this act.

Sec. 31-b. It shall be unlawful for any non-resident vendor,  
2 dealer, or other person to sell or furnish any malt, brewed,  
3 vinous, or fermented liquors, intoxicating liquors, or any mix-  
4 ture, compound or preparation, whether patented or not and  
5 whether intoxicating or not, to any person, corporation or firm  
6 within the territory of this state when the said liquors, mixture,  
7 compound or preparation are intended by any person inter-  
8 ested therein to be received, possessed, sold or in any manner  
9 used, either in the original package or otherwise in violation of  
10 the prohibition laws of this state; and in case of such sale or  
11 furnishing in which a shipment or delivery of such liquors is  
12 made by a common, or other carrier, the sale and furnishing  
13 thereof shall be deemed to be made in the county wherein the  
14 delivery thereof is made by such carrier to the consignee, his  
15 agent or employee. If any one shall violate the provisions of  
16 this section he shall be guilty of a misdemeanor and upon con-  
17 viction thereof the punishment of each offense hereunder shall  
18 be the same as that prescribed for offenses arising under section  
19 thirty-one of this act.

Sec. 37. It shall be unlawful for any person to own, operate,  
2 maintain or have in his possession, or have any interest in any  
3 apparatus for the manufacture of liquors, commonly known as  
4 a "moonshine still." For the purpose of this act any mechan-  
5 ism, apparatus, or device that is used or is capable of being  
6 used for manufacturing, distilling, or making liquors shall be  
7 taken and deemed to be a "moonshine still," and the owner and  
8 operator shall be deemed a "moonshiner." Any person owning,  
9 operating, maintaining or having in his possession, or having

10 any interest in a moonshine still, or who shall aid or abet the  
 11 persons so owning, operating or maintaining a moonshine  
 12 still, shall be guilty of a felony and upon conviction thereof  
 13 shall be fined not less than one hundred nor more than one  
 14 thousand dollars and be confined in the penitentiary not less  
 15 than one nor more than five years.

16 An indictment under this section shall be sufficient if in the  
 17 form or effect following:

18 "STATE OF WEST VIRGINIA,  
 19 County of....., to-wit:

20 In the circuit court of said county:

21 The grand jurors of the state of West Virginia, in and for  
 22 the body of the county of.....,  
 23 upon their oaths do present that A. B. on the.....  
 24 .....day of.....,  
 25 19....., and in the county of.....

26 ....., did unlawfully and feloniously  
 27 own, operate, maintain, possess and have an interest in a  
 28 certain apparatus, mechanism and device for the manu-  
 29 facture of liquors, commonly known as a moonshine still,  
 30 and did unlawfully and feloniously aid and abet others  
 31 owning, operating and maintaining a moonshine still against  
 32 the peace and dignity of the state."

33 Any person who has in his possession any quantity of  
 34 moonshine liquor shall be guilty of a misdemeanor and  
 35 upon conviction thereof shall be fined not less than one  
 36 hundred dollars nor more than three hundred dollars,  
 37 and confined in the county jail not less than thirty days  
 38 nor more than ninety days, *provided*, that the finding  
 39 of any quantity of liquor as defined in section one of  
 40 this act, in the possession of any person, other than com-  
 41 mercial whiskies which were obtained and stored in homes  
 42 for domestic use at a time when it was lawful so to do,  
 43 shall be *prima facie* evidence that the same is moonshine liquor.

44 It shall be unlawful for any person to make, or to have in  
 45 his possession, or on his premises, or on the premises of another,  
 46 or elsewhere, or to have under his control, or an interest in any  
 47 mixture of fermenting substances or materials, such as corn  
 48 meal, or other crushed or ground cereals, fruit or roots com-  
 49 bined with water or other liquids or substances, commonly  
 50 known as "mash" or any mixture of like kind or character,

51 for the purpose of making intoxicating liquors.

52 Any person who makes, has, or has in his possession, or on  
53 his premises, or on the premises of another, or who has under  
54 his control, or an interest in any mixture of fermenting sub-  
55 stances or materials, such as corn meal, other crushed cereals,  
56 fruits or roots combined with water or other liquids and sub-  
57 stances, commonly known as "mash" or any mixture of like  
58 kind or character, shall be guilty of a misdemeanor, and upon  
59 conviction thereof, shall be confined in the county jail not less  
60 than two months nor more than six months, and fined not less  
61 than one hundred dollars nor more than five hundred dollars.

62 An indictment for an offense hereunder shall be sufficient if  
63 in the form and effect following:

64 "STATE OF WEST VIRGINIA,

65 County of....., to-wit:

66 In the circuit court of said county:

67 The grand jurors in and for the body of the said county of  
68 ....., upon their oaths do present that  
69 A. B., within one year next prior to the finding of this indict-  
70 ment in the said county of ....., did  
71 unlawfully make, and have in his possession, and under his  
72 control, and did have an interest in a certain mixture of fer-  
73 menting substances and materials, commonly known as "mash,"  
74 against the peace and dignity of the State."

75 Upon the conviction of any person for the second or any  
76 subsequent offense of making, or having in his possession  
77 "mash," or any mixture of like kind or character he shall be  
78 guilty of a misdemeanor, and shall be confined in the county  
79 jail not less than six months nor more than one year and in  
80 addition thereto may be fined not less than one hundred nor  
81 more than five hundred dollars, and the provisions of section  
82 three relating to second or any subsequent offense shall be ap-  
83 plicable thereto.

84 It shall be unlawful for any person to make, or to have in his  
85 possession, or on his premises, or on the premises of another, or  
86 elsewhere, or to have under his control, or an interest in any  
87 malt or brewed drink, commonly known as "home brew" or  
88 drink of like kind or character.

89 Any person who makes or has in his possession any  
90 quantity of what is commonly known as "home brew,"  
91 or drink of like kind or character, shall for the first offense, be

92 guilty of a misdemeanor and upon conviction thereof shall be  
93 fined not less than twenty-five nor more than one hundred  
94 dollars.

95 Upon the conviction of any person for the second or any sub-  
96 sequent offense of making or having in his possession "home  
97 brew," or drink of like kind or character, he shall be guilty  
98 of a misdemeanor, and shall be confined in the county jail  
99 not more than one year and in addition thereto may be  
100 fined not less than one hundred nor more than five hundred  
101 dollars.

102 Sections three, nine, ten, eleven, twelve, thirteen and thirty-  
103 two of chapter thirty-two-a of Barnes' code, one thousand  
104 nine hundred and twenty-three and supplement, relating to  
105 searches and seizures and procedure, shall apply to and govern  
106 the offenses under this section, so far as they are applicable;  
107 *provided*, that any person held by a justice under this section  
108 to answer for a felony, shall give a bond in the penalty of not  
109 less than one thousand dollars to appear at the next term of  
110 the circuit, criminal or intermediate court having jurisdiction,  
111 to answer an indictment, if one be preferred against him, and  
112 *provided, further*, that it shall be the duty of any officer  
113 charged with the enforcement of the prohibition laws of this  
114 state to seize and forthwith destroy all moonshine stills and  
115 liquors and paraphernalia found in connection therewith.

Sec. 41. Any person found in a state of intoxication upon  
2 any street, road or alley or in any other public place, in this  
3 state, shall be guilty of a misdemeanor, and any officer charged  
4 with the enforcement of law in this state, shall, without a war-  
5 rant, take such person into custody and detain him until com-  
6 plaint can be made before a justice, and a warrant issued for  
7 his arrest. Upon conviction he shall for the first offense be  
8 fined not less than ten dollars nor more than fifty dollars, and  
9 for a second or any subsequent offense, he shall be fined not  
10 less than twenty-five dollars nor more than one hundred dollars,  
11 and be confined in jail not less than ten days nor more than  
12 sixty days; *provided, however*, that if the person so found under  
13 the influence of liquor shall at the time be engaged in driving or  
14 operating an automobile, truck, or other motor vehicle requiring  
15 a state license to operate, then upon his conviction as aforesaid,  
16 his operator's or chauffeur's certificate licensing him to operate  
17 motor vehicles in this state under section eighty-four chapter

18 one hundred twelve. acts of the legislature of one thousand  
19 nine hundred and twenty one, shall be canceled and revoked by  
20 the court or justice trying the case as an additional penalty,  
21 and same shall not be re-issued for a period of at least one year  
22 after the revocation thereof.

23 All convictions under this section, wherein the penalty in-  
24 eludes the revocation of an operator's or chauffeur's certificate  
25 shall be immediately certified to the state road commission of  
26 this state, by the justice or other court in which such conviction  
27 is had.

Sec. 42. All acts and parts of acts in conflict herewith are  
2 hereby repealed.

## CHAPTER 65

(Senate Bill No. 117—By Mr. Smith of Marion)

AN ACT providing for and adding section forty-four-*a* to section  
forty-four of chapter one hundred and thirty-seven of Barnes'  
code of West Virginia, one thousand nine hundred and twenty-  
three, by adding a new section thereto, providing for the pay-  
ment of fees in cases of naturalization and passports, duties  
being performed under the laws of the United States.

[Passed March 9, 1929; in effect ninety days from passage. Became a law without  
the approval of the Governor.]

SEC.

44-*a*. Circuit clerk to receive one-half of naturalization and passport fees.

*Be it enacted by the Legislature of West Virginia:*

That section forty-four-*a* be added to chapter one hundred and  
thirty seven of Barnes' code of West Virginia, one thousand nine  
hundred and twenty-three.

Section 44-*a*. That all clerks of the circuit court of the sev-  
2 eral counties of the state of West Virginia shall be entitled to  
3 and receive, in addition to the remuneration provided in section  
4 forty-four of chapter one hundred and thirty-seven, one-half  
5 of all fees taxed by the United States of America and paid by  
6 the person to the clerks of the circuit court of the several coun-  
7 ties for services rendered and performed in the naturalization  
8 of persons to citizenship in the United States of America and  
9 for preparing applications for passports from the United  
10 States.

## CHAPTER 66

(Senate Bill No. 123—By Mr. Smith, of Marion)

AN ACT to amend and re-enact section seventy-six-a of chapter thirty-four of Barnes' code of West Virginia, one thousand nine hundred and twenty-three, providing for the regulation of certain persons, associations, and corporations engaged in the business of soliciting or receiving deposits or payments on annuity contracts, certificates or annuity bonds.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec.

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. Payments on annuity contracts or bonds; when permit required; exemptions from provisions of act.</li> <li>2. License from insurance commissioner necessary.</li> <li>3. Deposit with state treasurer required.</li> <li>4. Definition of bonds and securities.</li> <li>5. Appraisal of mortgaged property or bond; exemption from making deposit; credit for deposits in other states; fee for permit.</li> </ol> | <ol style="list-style-type: none"> <li>6. When permit revoked or suspended.</li> <li>7. Examinations by insurance commissioners.</li> <li>8. Penalties for violations of act.</li> <li>9. Limitation on loans to officer, director or stockholder.</li> <li>10. Loans to be approved by directors.</li> <li>11. Receiving of reward for negotiating loan prohibited.</li> <li>12. Authority of insurance commissioner.</li> <li>13. Personal liability of officer or director for loans.</li> <li>14. Inconsistent acts repealed.</li> </ol> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. No person, association, or corporation shall engage in the business of soliciting or receiving deposits or payments on any annuity contract or certificate or annuity bond in fixed and stipulated installments within this state, without first having obtained from the insurance commissioner a permit to do business in this state. *Provided, however,* that this act shall not be construed as applying to persons, associations, or corporations engaged in selling merchandise on installments, insurance companies, foreign or domestic, duly authorized to do business in this state, building and loan associations, national banks and banks or trust companies organized and authorized to do business under the laws of this state, fraternal insurance companies or surety companies doing business under the laws of this state.

Sec. 2. No person, association or corporation shall sell or offer for sale or deliver within this state any contract, certificate or bond of any person, association, or corporation required by this act to obtain a license from the insurance commissioner to transact business in this state until such license has been issued by said insurance commissioner.

Sec. 3. Before a permit to transact business in this state shall be issued by the insurance commissioner to any person, association, or corporation within the purview of section one of this act, the insurance commissioner shall require said applicant to deposit with the state treasurer, in accordance with chapter five, acts of the legislature of one thousand nine hundred and twenty-seven, in trust, for the benefit of its contract holders, bonds and securities approved by said insurance commissioner to the amount of one hundred thousand dollars, and in addition to said deposit, said person, association, or corporation shall maintain at all times a deposit with the state treasurer of bonds and securities approved by said insurance commissioner to an amount equal to one hundred per cent of the liability on all outstanding contracts, in vaults at places in West Virginia approved by the state board of public works.

Sec. 4. The words "bonds and securities" used in the foregoing section shall be bonds or obligations of the United States government or bonds of any political subdivisions thereof, or like bonds or obligations of foreign governments or territorial possessions thereof, or bonds of private corporations secured by first mortgages or deeds of trust on the property of said corporations, or secured bonds of which two-thirds or more of collateral security is other collateral than corporate stock, or debentures, notes, and preferred or guaranteed stocks of corporations, the net income of which for five years preceding investment shall have been equal to four per cent on the par value of all its stock, or in case of stock of no par value, on the value for which such stock was issued, providing that no corporation shall have more than ten per cent of the preferred stock of issuing corporation, or bills and acceptances eligible for purchase by federal reserve banks, or stock of corporations that have shown a consistent rate of earning and have a ready market, or mortgages on unencumbered real estate, or loans secured by deeds of trust where the amount loaned does not exceed fifty per cent of the appraised value of said real estate. Said mortgages or loans secured by deeds of trust shall be upon improved property, accompanied by an abstract of title with fire insurance policy to protect the improvements thereon.

Sec. 5. The insurance commissioner may require an independent appraisal at the expense of the company, of any property on which it holds a mortgage or deed of trust, or any bond

4 or other investment extended by the company for the purpose  
5 of maintaining the required deposit or deposits in section three  
6 of this act. *Provided*, that when by the laws of any other state,  
7 any such person, association or corporation shall have been  
8 required to make and shall have made such deposit in said  
9 state, equal or greater in amount for the benefit of contract  
10 holders in said state; upon the filing of a certificate from the  
11 proper officer in said state with the insurance commissioner of  
12 this state, such person, association, or corporation shall not be  
13 required to make such deposit with the insurance commissioner  
14 of this state for the benefit of its contract holders in said state;  
15 and, *provided, further*, that when the laws of any other state  
16 require such a deposit less in amount, such person, association  
17 or corporation shall file a certificate from the proper officer in  
18 said state with the insurance commissioner of this state, show-  
19 ing the amount of the deposit made, and shall deposit with the  
20 insurance commissioner of this state an amount which, together  
21 with the deposit made in said state, shall make up the total  
22 amount required by this state to be deposited by said person,  
23 association, or corporation, and said contract holders in said  
24 states shall not be entitled to the benefit of the securities de-  
25 posited with the insurance commissioner of this state under this  
26 act, except so much of said deposit which may be made to com-  
27 plete the total amount required by this act where the law of  
28 any other state requires a lesser amount. Said permit shall be  
29 issued for one year, or the fractional part of a year, and for  
30 issuing same a fee of ten dollars shall be charged.

31 One hundred per cent of the liability on all outstanding con-  
32 tracts as used in this act is hereby defined to mean the total  
33 amount which such person, association, or corporation may be  
34 liable to pay in cash to the holders of all contracts under the  
35 terms thereof at the time of the deposit.

Sec. 6. On the failure of such person, association, or corpo-  
2 ration to deposit such additional bonds and securities with the  
3 state treasurer when so required by said insurance commis-  
4 sioner, the permit to do business in this state shall be revoked  
5 by said insurance commissioner. Whenever the said insur-  
6 ance commissioner, upon an examination of the affairs of any  
7 such person, association, or corporation, finds the liabilities of  
8 such person, association, or corporation exceed the assets  
9 thereof, the insurance commissioner shall suspend the permit

10 of such person, association, or corporation until he is satisfied  
11 that the assets of such person, association, or corporation are  
12 increased to exceed said liabilities.

Sec. 7. The insurance commissioner shall annually examine,  
2 or cause to have examined, the affairs of all persons, associa-  
3 tions, or corporations, coming within the purview of this act,  
4 at the expense of such persons, associations or corporations, and  
5 shall certify to such person, association or corporation so ex-  
6 amined the result of such examination, and shall require an  
7 annual report of the financial condition of all such persons,  
8 associations, or corporations as of the thirty-first day of De-  
9 cember of each year, and said report shall be returned to said  
10 insurance commissioner on or before the first day of March  
11 next ensuing.

Sec. 8. The violation of any of the provisions of this act  
2 shall be deemed a misdemeanor and shall subject the person,  
3 association, or corporation, upon conviction, to a fine of not  
4 less than fifty dollars and not more than five hundred dollars.

Sec. 9. No officer, director, or stockholder of any company  
2 chartered or licensed under this act shall borrow, directly or  
3 indirectly, more than ten per cent of the total capital and sur-  
4 plus of such company, nor shall said company invest more than  
5 ten per cent of their assets in the securities of any one corpo-  
6 ration.

Sec. 10. No loan or investment shall be made by any com-  
2 pany chartered or licensed under this act without either ap-  
3 proval of a majority of a committee of at least three directors  
4 empowered by said corporation to make investments, or the  
5 approval of a majority of the directors of such company present  
6 at a meeting of such directors.

Sec. 11. No director or officer of any company chartered  
2 or licensed under this act shall receive any money or valuable  
3 thing for negotiating or recommending any loan from such  
4 company, or for aiding in the sale of any stocks, bonds, or other  
5 securities to such company.

Sec. 12. The insurance commissioner shall have the same  
2 authority over persons, associations, or corporations engaged  
3 in selling annuity contracts, certificates, or bonds, as over in-  
4 surance companies and if in his opinion the assets are impaired  
5 or the company is not complying with these laws, said com-  
6 missioner shall have authority to revoke the license of said per-

7 sons, associations, or corporations to do business in this state,  
8 and if said license is so revoked, the deposit or a sufficient  
9 amount of same, shall remain under the authority and control of  
10 the insurance commissioner until the total liability of all the  
11 contracts, certificates or annuity bonds or contracts issued by  
12 said person association or corporation in this state is redeemed  
13 or settled.

Sec. 13. Every officer or director of any company under  
2 purview of this act knowingly consenting to a loan or invest-  
3 ment in wilful violation of any of the provisions hereinbefore  
4 enumerated shall be personally liable to the company for any  
5 loss which may be sustained by such investment or loan to be  
6 recovered in an action to be brought by the insurance commis-  
7 sioner on the complaint of the holder of any contract, certifi-  
8 cate, or annuity bond or contract, certificate or share interest  
9 in the company suffering thereby, and shall be fined not more  
10 than one thousand dollars and imprisoned not more than five  
11 years.

Sec. 14. All acts or parts of acts inconsistent with this act  
2 are hereby repealed.

## CHAPTER 67

(Senate Bill No. 160—By Mr. Hutchinson)

AN ACT to amend and re-enact section twenty-eight of chapter one  
hundred and forty-five of Barnes' code of West Virginia, of  
one thousand nine hundred and twenty-three, by adding  
thereto a section to be known as twenty-eight-d, relating to  
hogs running at large, and making the owners thereof liable  
for injury done by hogs to the properties of others than the  
owners of hogs running at large.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the  
Governor.]

SEC.

1. Recovery for damages done by hogs running at large.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That it shall be unlawful for any hogs to run at  
2 large, and should such hogs, while running at large, destroy  
3 or injure the property of another, the owner thereof shall pay

4 to the party whose property may be injured or destroyed, the  
 5 amount of damages sustained by him by reason of such destruc-  
 6 tion or injury. And the party so injured may, if he finds such  
 7 hogs on his premises, retain them, or a sufficient number thereof,  
 8 until all damages and the cost of keeping be paid. Such dam-  
 9 ages and costs may be collected in the manner provided by sec-  
 10 tion two of chapter forty-two of the acts of the legislature of  
 11 one thousand eight hundred and ninety-seven.

## CHAPTER 68

(Senate Bill No. 178—By Mr. Woods)

AN ACT amending and re-enacting section one hundred of chapter  
 thirty-two of Barnes' West Virginia code, one thousand nine  
 hundred and twenty-three, relating to the business of a junk  
 dealer.

[Passed March 5, 1929; in effect ninety days from passage. Became a law without  
 the approval of the Governor.]

SEC.  
 100. Amount of license; list of agents  
 to be certified to clerk of the  
 county court by dealer; unlaw-  
 ful purchase of copper wires,  
 etc., list of lawful purchases of

copper wire, etc.; when bill of  
 sale required; provisions con-  
 cerning transportation of junk  
 from state; penalties for viola-  
 tion.

*Be it enacted by the Legislature of West Virginia:*

That section one hundred of chapter thirty-two of Barnes' code  
 of West Virginia, one thousand nine hundred and twenty-three, be  
 amended and re-enacted as follows:

Section 100. On every resident license to buy junk or carry  
 2 on the business of a junk dealer or itinerant purchaser of junk,  
 3 twenty-five dollars; on every agent, solicitor, canvasser or sales-  
 4 man employed by any resident junk dealer, ten dollars; on  
 5 every non-resident dealer, or his agent who buys or solicits for  
 6 the purchase of junk within this state, except from licensed  
 7 dealers, fifty dollars; and, *provided*, that every dealer shall  
 8 certify to the clerk of the county court the name or names of  
 9 the agents for whom he desires a license certificate, and that he  
 10 shall give to each agent so employed by him a certificate of  
 11 authority, which said agent at all times shall keep with his  
 12 license, and no such junk dealer agent's license shall be valid  
 13 and effective without such certificate of authority.

14 It shall be unlawful for any person or persons, firm or cor-  
15 poration, to barter, purchase, exchange, buy or accept from any  
16 person whatsoever, except plumbers, the owner or owners of  
17 buildings from which the material is taken, coal companies, in-  
18 dustrial, manufacturing and public utility companies, or the  
19 authorized agents of such companies, lawful owners and licensed  
20 junk dealers, copper wires, cables, copper trolley wire, aluminum  
21 wire, brass bearings or fittings or lead, shipped or delivered  
22 from points within this state. Every junk dealer purchasing any  
23 of the items hereinbefore mentioned from the aforesaid persons,  
24 firms or corporations, shall accurately list such purchase in a  
25 permanent record showing kind and character of junk pur-  
26 chased, date of purchase and from whom purchased, which rec-  
27 ord shall be open to the inspection of all law enforcement officers.

28 It shall be unlawful for any junk dealer to purchase any of  
29 the items hereinbefore mentioned, except from the persons,  
30 firms or corporations named aforesaid, without securing from  
31 the seller a bill of sale, receipt of other proof of lawful owner-  
32 ship, which shall be retained by such purchaser or dealer, and  
33 the said purchaser or dealer shall list in a record book the full  
34 name and address of the seller, a complete description of the  
35 kind and character of the junk or material purchased, the hour  
36 and day purchased and the license number of any automobile  
37 or truck which may be used in making delivery of such junk  
38 or materials, which record shall be open to the inspection of all  
39 law enforcement officers, and be preserved for a period of not  
40 less than one year.

41 Every non-resident junk dealer, before transporting from the  
42 state any of the items hereinbefore mentioned, shall file with the  
43 sheriff of the county where such purchase was made a complete  
44 description of the property he proposes to transport from the  
45 state, showing the date of purchase, the names of the buyer and  
46 seller, the party to whom consigned and the license number of  
47 any automobile or truck which may be employed in transport-  
48 ing such junk or materials hereinbefore mentioned.

49 Any person who shall violate any of the provisions of this  
50 section shall be guilty of a misdemeanor and upon conviction  
51 before any justice of the peace or court of competent jurisdic-  
52 tion, shall be fined not less than one hundred dollars and not  
53 more than five hundred dollars; *provided, however*, when any  
54 person other than the lawful owner shall take, transport, sell or

55 offer for sale any such junk or items hereinbefore mentioned of  
 56 a scrap value of less than twenty dollars, it shall constitute petit  
 57 larceny and where the scrap value of such items is twenty  
 58 dollars or more it shall constitute grand larceny.

59 All acts or parts of acts inconsistent herewith are hereby  
 60 repealed.

## CHAPTER 69

(Senate Bill No. 181—By Mr. Martin)

AN ACT to amend and re-enact section fourteen-a-one of chapter thirty-four of the acts of one thousand nine hundred and thirteen, as amended by chapter eighty-two of the acts of one thousand nine hundred and twenty-one, chapter forty-five of the acts of one thousand nine hundred and twenty-five, and chapter fifteen of the acts of one thousand nine hundred twenty-seven.

[Passed March 9, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC. 14-a-1.	Time within which and method		by which taxes not returned delinquent may be collected.
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*Be it enacted by the Legislature of West Virginia:*

That section fourteen-a-one of chapter thirty of the code of West Virginia, as amended by chapter thirty-four of the acts of one thousand nine hundred and thirteen, and also as amended by chapter eighty-two of the acts of one thousand nine hundred and twenty-one, and also as amended by chapter forty-five of the acts of one thousand nine hundred and twenty-five, and also as amended by chapter fifteen of the acts of one thousand nine hundred and twenty-seven, be amended and re-enacted so as to read as follows:

Section 14-a-1. The sheriffs of the several counties of the 2 state of West Virginia whose term of office expired on the thirty- 3 first day of December one thousand nine hundred and twenty- 4 eight, shall be allowed until the thirty-first day of December, 5 one thousand nine hundred and twenty-nine within which to 6 make distraint and sale for the collection of taxes, with interest 7 thereon, and costs of collection, not returned delinquent for the 8 years one thousand nine hundred and twenty-five, one thousand 9 nine hundred and twenty-six, one thousand nine hundred and

10 twenty-seven, and one thousand nine hundred and twenty-eight,  
11 and the said sheriffs and their deputies and the constables of  
12 their respective counties are empowered to collect the said taxes,  
13 either by suit or by making distraint and sale of the property  
14 of the persons against whom such assessment for taxes were  
15 made for the years one thousand nine hundred and twenty-five,  
16 one thousand nine hundred and twenty-six, one thousand nine  
17 hundred and twenty-seven and one thousand nine hundred and  
18 twenty-eight, and for which taxes have not been returned de-  
19 linquent for those years; and in case any such person against  
20 whom such assessments were made for those years has removed  
21 or shall remove to another county, the said sheriff and his  
22 deputies are authorized to make distraint and sale in such county  
23 to which any such person has removed or shall remove. Such  
24 sheriff may send a statement of the taxes due from any such  
25 person who has removed to another county to the sheriff of the  
26 county to which he or she has removed, and the sheriff of that  
27 county is authorized and empowered to make levy and collection  
28 of said taxes as on assessments made in his own county.

## CHAPTER 70

(Senate Bill No. 194—By Mr. Helmick)

AN ACT to amend and re-enact section eighty of chapter seventeen of the acts of the legislature of one thousand nine hundred and twenty-five, relating to the exemption from the payment of any fees on account of registration of any vehicle.

[Passed March 9, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.  
80. Exemption of certain vehicles from payment of registration fee.

*Be it enacted by the Legislature of West Virginia:*

That section eighty of chapter seventeen of the acts of the legislature of one thousand nine hundred and twenty-five is hereby amended and re-enacted to read as follows:

Section 80. The United States government, the state, or any political subdivision thereof, shall be exempt from the payment of any fee on account of registration of any vehicle, owned or operated by the United States government, state or any po-

5 litical subdivision thereof, as the case may be; *provided*, that  
6 the proper representative of the federal government, state, or  
7 any political subdivision shall make, or cause to be made, on  
8 the form provided for that purpose, an application for regis-  
9 tration of such vehicle so owned and operated; and the regis-  
10 tration plate or plates issued for such vehicle shall be displayed  
11 or caused to be displayed as provided in this act; *provided*,  
12 *further*, that fire apparatus owned by the United States gov-  
13 ernment, the state or any political subdivision of the state  
14 shall be exempted from all the provisions of this act, except  
15 such provisions as relate to the qualifications and licensing of  
16 drivers; *provided, further*, that any ambulance used exclu-  
17 sively for charitable purposes, for which use there is no charge,  
18 shall be exempted from all the provisions of this act, except  
19 such provisions as relate to the qualification and licensing of  
20 drivers.

## CHAPTER 71

(Senate Bill No. 200—By Mr. Woods)

AN ACT to amend and re-enact section one of chapter nine of the acts of the legislature of one thousand nine hundred and fifteen; section eighteen of chapter fifty-eight of the acts of the legislature of one thousand nine hundred and twenty-three; section twenty-nine of chapter one hundred and thirty-one of the acts of the legislature of one thousand nine hundred and nineteen; section thirty-eight of chapter fifty-eight of the acts of the legislature of one thousand nine hundred and twenty-three; section forty of chapter nine of the acts of the legislature of one thousand nine hundred and fifteen; section forty-three of chapter one hundred and thirty-one of the acts of the legislature of one thousand nine hundred and nineteen and sections forty-seven and fifty-two of chapter sixty-eight of the acts of the legislature of one thousand nine hundred and twenty-five, and to repeal section fifty-seven of chapter sixty-eight of the acts of the legislature of one thousand nine hundred and twenty-five, all relating to workmen's compensation.

[Passed March 7, 1929; in effect from passage. Approved by the Governor.]

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| <p>SEC.<br/>1. Appointment, qualification and term of office of state compensation commissioner; oath and bond; duty of attorney general; salary and official seal.</p> <p>18. Commissioner to classify industries; to keep account of moneys credited to compensation fund and of liability incurred and disbursements made; amount charged in fatal and permanent disabilities; rates of premiums; reserves; premium rate uniform as to classes; exceptions; rates for individual subscribers; notice to employer of change of rate and of payments to injured employ-</p> | <p>ees; creation of surplus fund.</p> <p>29. When funeral expense may be paid.</p> <p>38. Surgical or hospital treatment, amount allowed.</p> <p>40. Jurisdiction of commissioner over each case to be continuing.</p> <p>43. Proceedings upon making of an award going to the basis of claimant's right to compensation; appeal to supreme court of appeals; procedure; cost of, how taxed.</p> <p>47. Examination of claimant.</p> <p>52. Application of act to employer engaged in interstate or foreign commerce; section fifty-seven, chapter sixty-eight, acts 1925 repealed.</p> |
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*Be it enacted by the Legislature of West Virginia:*

That section one of chapter nine of the acts of the legislature of one thousand nine hundred and fifteen; section eighteen of chapter fifty-eight of the acts of the legislature of one thousand nine hundred and twenty-three; section twenty-nine of chapter one hundred and thirty-one of the acts of the legislature of one thousand nine hundred and nineteen; section thirty-eight of chapter fifty-eight of the acts of the legislature of one thousand nine hundred and twenty-three; section forty of chapter nine of the acts of the legislature of one thousand nine hundred and fifteen; section forty-three of chapter one hundred and thirty-one of the acts of the legislature of one thousand nine hundred and nineteen and sections forty-seven and fifty-two of chapter sixty-eight of the acts of the legislature of one thousand nine hundred and twenty-five, be amended and re-enacted and that section fifty-seven of chapter sixty-eight of the acts of the legislature of one thousand nine hundred and twenty-five, be repealed, so as to read as follows:

Section 1. The office of state compensation commissioner is  
 2 hereby created. The governor, by and with the consent of the  
 3 senate, may on or before the thirty-first day of May, one thou-  
 4 sand nine hundred and twenty-nine, appoint as state workmen's  
 5 compensation commissioner some citizen of this state entitled  
 6 to vote, whose term of office shall begin at the date of appoint-  
 7 ment and shall continue for six years and until the successor of  
 8 such commissioner is appointed and qualified, unless he be  
 9 sooner removed. An appointment may be made to fill a vacancy  
 10 or otherwise when the senate is not in session, but shall be acted  
 11 upon at the next session thereof. The person so appointed shall  
 12 take the oath or affirmation prescribed by section five of article

13 four of the constitution, and such oath shall be certified by the  
14 person who administers the same and shall be filed in the office  
15 of the secretary of state. He shall give bond in the penalty of  
16 twenty-five thousand dollars conditioned for the faithful per-  
17 formance of the duties of his office; which bond shall be ap-  
18 proved by the attorney general as to form, and by the governor  
19 as to sufficiency, and when so approved, shall be filed and re-  
20 corded in the office of the secretary of state. The surety of said  
21 bond may be a bonding or surety company, in which case the  
22 premium shall be paid out of the appropriation made for the  
23 administration of this act.

24 (a) The attorney general shall perform all legal services re-  
25 quired by the commissioner under the provisions of this act.

26 (b) The commissioner shall hold no position of trust or profit,  
27 or engage in any occupation or business, interfering or incon-  
28 sistent with his duties as such commissioner.

29 (c) The said commissioner shall receive an annual salary of  
30 six thousand dollars, payable in the same manner as the salaries  
31 of other state officers are paid and charged to the appropriations  
32 which shall be made from time to time hereafter by the state  
33 for the administration of this act.

34 (d) The commissioner shall have an official seal for the au-  
35 thentication of his orders and proceedings, upon which seal  
36 shall be engraved the words, "West Virginia Compensation  
37 Commissioner," and such other design as the commissioner may  
38 prescribe; and the courts in this state shall take judicial notice  
39 of the seal of the said commissioner, and in all cases copies  
40 of orders, proceedings or records in the office of the West Vir-  
41 ginia compensation commissioner certified by the secretary of  
42 the said commissioner under his seal, shall be equal to the origi-  
43 nal in evidence.

Sec. 18. The commissioner shall distribute into groups, or  
2 schedules, the industries subject to this act, in accordance with  
3 the nature of the business and the degree of hazard incident  
4 thereto. And the commissioner shall have power, in like man-  
5 ner, to reclassify into groups, or schedules, at any time, said  
6 industries, and to create additional groups or schedules.

7 (a) The commissioner shall keep an accurate account of all  
8 money or moneys paid or credited to the compensation fund,  
9 and of the liability incurred and disbursements made against

10 same; and an accurate account of all money or moneys received  
11 from each individual subscriber, and of the liability incurred  
12 and disbursements made on account of injuries and death of the  
13 employees of each subscriber; and of the receipts and incurred  
14 liability of each schedule and class.

15 In fatal cases and permanent disability cases exceeding eighty-  
16 five *per centum* disability, the amount charged against the em-  
17 ployer's account shall be such sum as is estimated to be the  
18 average cost of such cases to the fund; *providing*, the commis-  
19 sioner decides that the injury or injuries causing death or per-  
20 manent disability was received in the course of and resulting  
21 from the employee's employment.

22 (b) It shall be the duty of the commissioner to fix and main-  
23 tain the lowest possible rates of premiums consistent with the  
24 maintenance of a solvent workmen's compensation fund and the  
25 creation and maintenance of a reasonable surplus in each sched-  
26 ule after providing for the payment to maturity of all liability  
27 incurred by reason of injury or death to employees entitled to  
28 benefits under the provisions of this act. A readjustment of  
29 rates shall be made yearly on the first day of July, or at any  
30 time same may become necessary. The determination of the  
31 lowest possible rates of premiums within the meaning hereof and  
32 of the existence of any surplus, or deficit in the fund, shall be  
33 predicated solely upon the experience and statistical data com-  
34-35 piled from the records and files in the commissioner's office  
36 under this and prior acts in the State of West Virginia for the  
37 period from the first day of June, one thousand nine hundred  
38 and thirteen, to the nearest practicable date prior to such read-  
39 justment; *provided, however*, that any expected future return,  
40 in the nature of interest or income from invested funds, shall  
41 be predicated upon the average realization from investments,  
42 to the credit of the compensation fund for the two years next  
43 preceding. Any reserves set up for future liabilities and any  
44 commutation of benefits, shall likewise be predicated solely upon  
45 prior experience under this and preceding acts and upon ex-  
46 pected realization from investments determined by said re-  
47 spective past periods, as aforesaid.

48 The commissioner may fix a rate of premium applicable alike  
49 to all subscribers forming a schedule or class and such rates shall  
50 be determined from the record of such schedule or class shown  
51 upon the books of the commissioner; *provided*, that if any

52 schedule has a sufficient number of employers with considerable  
53 difference in their degrees of hazard, the commissioner may fix  
54 a rate for each subscriber of such schedule, such rate to be  
55 based upon the subscriber's record on the books of the commis-  
56 sioner for the twelve months last ending April thirtieth of the  
57 year in which the rate is to become effective; and the liability  
58 part of such record shall include such cases as have been acted  
59 upon by the commissioner during said twelve months' period,  
60 irrespective of the date the injury was received; and any sub-  
61 scribe, in a schedule so rated, whose record for said twelve  
62 months' period can not be obtained, shall be given a rate based  
63 upon his record for any part of said period or such rate as may  
64 be deemed just and equitable by the commissioner; and the com-  
65 missioner shall have authority to fix a reasonable minimum and  
66 maximum for any schedule to which this individual method of  
67 rating is applied, and to add to the rate determined from the  
68 subscriber's record such amount as may be necessary to liqui-  
69 date any deficit in the schedule or to create a reasonable surplus.

70 It shall be the duty of the commissioner whenever he changes  
71 any rate to notify every employer affected thereby of that fact  
72 and of the new rate and when the same takes effect. It shall  
73 also be his duty to furnish to each employer yearly, or oftener  
74 if requested by the employer, a statement giving the name of  
75 each of his employees who were paid for injury and the amount  
76 so paid during the period covered by the statement.

77 Ten *per centum* of all that shall hereafter be paid into the  
78 workmen's compensation fund shall be set aside for the cre-  
79 ation of a surplus fund until such surplus shall amount to the  
80 sum of five hundred thousand dollars, after which time the sum  
81 of five *per centum* of all the money paid into the said fund shall  
82 be credited to such surplus fund, until such time as in the judg-  
83 ment of the commissioner, such surplus fund shall be sufficiently  
84 large to cover the catastrophe hazard and all losses not other-  
85 wise specifically provided for in this act.

Sec. 29. In case the personal injury causes death within the  
2 period of four years from the date of original injury and dis-  
3 ability is total and continuous from the date of such injury to  
4 date of death reasonable funeral expense not to exceed one hun-  
5 dred and fifty dollars, may be paid from the fund. Payment to  
6 be made to the persons who have furnished the service and sup-  
7 plies, or to the persons who have advanced payment for same,

8 as the commissioner may deem proper, in addition to such award  
9 as may be made to the employee's dependents.

Sec. 38. The commissioner shall have authority in certain  
2 cases where an employee has sustained a permanent disability,  
3 and such fact having been so determined by the commissioner,  
4 and in his opinion the *per centum* of said permanent disability  
5 can be materially reduced or made negligible by medical, sur-  
6 gical or hospital treatment, after due notice to the employer,  
7 expend an amount not to exceed the sum of six hundred dol-  
8 lars for such medical, surgical or hospital treatment, regardless  
9 of any other provision in this act providing for the payment of  
10 medical, surgical or hospital treatment. No payment shall be  
11 made for such medical, surgical or hospital treatment provided  
12 for in this section unless such treatment has been duly author-  
13 ized by the commissioner prior to the rendering of such treat-  
14 ment.

Sec. 40. The power and jurisdiction of the commissioner over  
2 each case shall be continuing, and he may from time to time,  
3 after due notice to the employer, make such modifications or  
4 change with respect to former findings or orders with respect  
5 thereto as in his opinion may be justified; *provided*, no further  
6 award may be made except, within one year after death of em-  
7 ployee in fatal cases, or, except in case of non-fatal injuries  
8 within two years after payments for temporary disability shall  
9 have ceased and within one year after the commissioner shall  
10 have made the last payment in any permanent disability case.

Sec. 43. The commissioner shall have full power and au-  
2 thority to hear and determine all questions within his juris-  
3 diction, and to review the action of any employer taken under  
4 section fifty-four hereof, but upon the making of any award  
5 going to the basis of claimant's right to compensation, as here-  
6 inafter provided from the fund or directly from any employer  
7 under section fifty-four, or upon the review of any action of  
8 any employer under section fifty-four, the commissioner shall  
9 give notice in writing to employer, employee or dependent, as the  
10 case may be, of his action, which action shall be final unless the  
11 employer, employee or dependent shall, within ten days after  
12 receipt of said notice, object to said finding, in which event  
13 upon receipt of objection in writing from the employer, em-  
14 ployee or dependent relative to the basis of the claim on the  
15 ground that the injury was self inflicted or that it was not re-

16 ceived in the course of and resulting from his employment,\* or  
17 upon any other ground going to the basis of the claimant's or  
18 employer's right, the commissioner shall set a time and place  
19 for the hearing of evidence, notifying both the employer and  
20 claimant at least ten days in advance; and the evidence taken  
21 shall be transcribed and become a part of the record in the pro-  
22 ceedings, together with other records thereof in the commis-  
23 sioner's office. After said hearing the action of the commissioner  
24 affirming, reversing or modifying his former action shall be  
25 final; *provided, however*, that the claimant or the employer  
26 may, within ninety days after notice of the final action of the  
27 commissioner, apply to the supreme court of appeals for a re-  
28 view of the record and such decision.

29 The applicant shall file a petition before said supreme court  
30 of appeals against the commissioner and other party, (claimant  
31 or employer, as the case may be), within said period of ninety  
32 days, and the commissioner and other party shall be notified  
33 forthwith by the clerk of said court of the filing of such petition  
34 for review. And the commissioner shall, within ten days after  
35 the receipt of such notice, file with the clerk of said court the  
36 record of such proceedings before the commissioner, including  
37 a transcript of the evidence. The court, or any judge thereof,  
38 may thereupon decide whether a review shall be granted or not,  
39 and if such review be granted to a non-resident of this state,  
40 he shall execute and file before the clerk of said court, before  
41 such proceeding for review becomes effective, a bond with surety  
42 to be approved by said clerk conditioned to pay all costs which  
43 may be awarded against him on such review. If a review be  
44 granted, the commissioner and the opposing party, (claimant or  
45 employer), or their attorneys, shall be notified of the fact, by  
46 mail, by the clerk of said court. If a review be granted as  
47 aforesaid, the case shall be tried by said court in the same man-  
48 ner as other cases before it, save and except that neither the  
49 records nor briefs need be printed, and that every such review  
50 granted prior to thirty days before the beginning of any term  
51 shall be placed upon the docket for such term, and such reviews  
52 shall have precedence over other cases on such docket. The at-  
53 torney general, without extra compensation, or other counsel,  
54 if the commissioner sees fit to employ the same, shall represent  
55 the commissioner on such review. The supreme court on such  
56 review shall determine the matter and certify its decision to

57 the commissioner, and if it determines the issue in claimant's  
58 favor, the commissioner shall fix his compensation within the  
59 limits and under the rules prescribed in this act and as directed  
60 by said court. The cost of such proceedings, including a reason-  
61 able attorney's fee, not exceeding one hundred dollars, to the  
62 claimant's attorney, shall be fixed by the court and taxed  
63 against the employer if the latter be unsuccessful, and if the  
64 claimant be unsuccessful, such costs, not including attorney's  
65 fees, shall be taxed against the commissioner, payable out of any  
66 funds available in his hands, or shall be taxed against the claim-  
67 ant, in the discretion of the court.

Sec. 47. The commissioner shall have power, after due no-  
2 tice to the employer, and whenever in his opinion it shall be  
3 necessary, to order a claimant to appear for examination before  
4 a medical examiner, selected by the commissioner. Claimant  
5 shall be entitled to reasonable traveling and other expenses  
6 necessarily incurred by him in obeying said order, which shall  
7 be paid out of the amount allotted under this act for medical,  
8 surgical and hospital treatment.

Sec. 52. In case any employer within the meaning of this act  
2 is also engaged in inter-state or foreign commerce, and for whom  
3 rule of liability or method of compensation has been established  
4 by the congress of the United States, this act shall apply to  
5 him, only to the extent that his mutual connection with work  
6 in this state is clearly separable and distinguishable from his  
7 inter-state work, and in such case such employer and any of  
8 his employees thus engaged in both intra-state and inter-state  
9 work, may, with the approval of the commissioner, elect to pay  
10 into the fund the premiums provided by this act on account of  
11 work done in this state only, by filing written acceptances, or  
12 a joint election with the commissioner, and such election when  
13 filed and approved by the commissioner shall subject the ac-  
14 ceptor irrevocably to the provisions of the act to all intents and  
15 purposes as if they had been originally included in its terms.  
16 Payments of premiums shall be on the basis of the payroll of the  
17 employees who accept as aforesaid, for work done in this state  
18 only.

19 That unless, and until the congress of the United States has  
20 by appropriate legislation established a rule of liability or  
21 method of compensation governing employers and employees  
22 engaged in commerce within the purview of the commerce clause

23 of the federal constitution (article one, section eight), section  
 24 nine of chapter fifteen-p, of Barnes' code of one thousand nine  
 25 hundred and twenty-three, as amended by chapter sixty-eight of  
 26 the acts of the legislature of one thousand nine hundred and  
 27 twenty-five, shall apply without regard to the inter-state or  
 28 intra-state character or nature of the work or business engaged  
 29 in; *provided, however*, that this act shall not apply to employees  
 30 of steam railroads, or steam railroads partly electrified, or ex-  
 31 press companies, engaged in inter-state commerce.

32 Section fifty-seven of chapter sixty-eight of the acts of the  
 33 legislature in regular session for the year one thousand nine  
 34 hundred and twenty-five is hereby repealed.

## CHAPTER 72

(Senate Bill No. 209—By Mr. Hugus)

AN ACT to permit the trustees of property held in trust for benevolent, charitable or public purposes to transfer such trust property and obligations to a trust company having general authority from this state to execute trusts.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

### Sec.

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| <p>1. Conveyance or transfer to trust companies of benevolent, charitable or public property held by trustees; duty of successor trustee.</p> | <p>2. Proceedings by circuit court to appoint trustee in lieu of substituted trustee.</p> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. The trustees of any property which is lawfully held in trust for any benevolent, charitable or public purpose may assign or convey and transfer all of such property, and any prospective right thereto, upon the same trusts, to any trust company having general authority from the state of West Virginia to execute trusts, or to any national banking association located in this state, and having trust company powers, or to such company or such association and one or more individuals as co-trustees. Such trustees shall promptly cause such assignment or conveyance to be duly admitted to recordation in the county in which the principal office of such trust company is located, and in any other county in which the trust or the greater portion thereof was created.

14 Their powers and rights with respect to such property shall  
 15 thereupon cease; and they shall have no further duties or lia-  
 16 bilities concerning the trust except to furnish to such successor  
 17 trustee all of their papers and information which may be use-  
 18 ful in the performance of the trust, and to settle their accounts  
 19 as required by law. Such successor trustee shall proceed to  
 20 execute the said trust, in accordance with its provisions and  
 21 with the requirements of law. But if any one of said trustees  
 22 shall have been appointed to such trust in a proceeding in a  
 23 circuit court of this state, such assignment and conveyance shall  
 24 not be valid until authorized by an order of such court, and  
 25 shall not be filed for recordation until such order shall have  
 26 been duly entered.

Sec. 2. The circuit court of either of the counties above re-  
 2 ferred to shall have jurisdiction to appoint a trustee or trus-  
 3 tees in lieu of such substituted trustee, upon application of any  
 4 person who has contributed a part of the trust property, or who  
 5 has a legal interest in the execution of the trust; but such ap-  
 6 pointment shall only be made upon a hearing after such notice  
 7 as the court may require; and upon ascertaining that such  
 8 change of trustee will be appropriate in view of the provisions  
 9 of the trust and in consideration of the intended beneficiaries.

## CHAPTER 73

(Senate Bill No. 214—By Mr. Hallanan)

AN ACT to amend and re-enact chapter twenty-nine, acts of the  
 legislature of West Virginia, of one thousand nine hundred  
 and fifteen, entitled "A Bill re-districting the state for rep-  
 resentatives in the congress of the United States."

[Passed March 9, 1929; in effect ninety days from passage. Approved by the  
 Governor.]

SEC. 1. Apportionment in house of repre- | sentatives of the United States  
 by congressional districts.

*Be it enacted by the Legislature of West Virginia:*

That chapter twenty-nine of the acts of the legislature of one  
 thousand nine hundred and fifteen, be amended and re-enacted  
 so as to read as follows:

- Section 1. The number of members to which this state is entitled in the house of representatives of the United States shall be apportioned amongst the several counties of the state arranged into six districts, numbered as follows, that is to say:
- First Congressional District:* Brooke, Hancock, Marion, Marshall shall, Ohio, Taylor and Wetzel.
- Second Congressional District:* Barbour, Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph and Tucker.
- Third Congressional District:* Braxton, Clay, Doddridge, Gilmer, Harrison, Lewis, Nicholas, Ritchie, Upshur and Webster.
- Fourth Congressional District:* Cabell, Calhoun, Jackson, Mason, Pleasants, Putnam, Roane, Tyler, Wirt and Wood.
- Fifth Congressional District:* Summers, Lincoln, Mercer, Mingo, Monroe, McDowell, Wayne and Wyoming.
- Sixth Congressional District:* Boone, Fayette, Kanawha, Logan, Pocahontas, Raleigh and Greenbrier.

## CHAPTER 74

(Senate Bill No. 225—By Mr. West)

AN ACT to amend and re-enact section twenty-nine-a of chapter thirty-two of the acts of the legislature of one thousand nine hundred and fifteen, relating to the practice of dentistry and dental hygiene.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

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| <p>SEC.<br/>29-a-</p> | <p>(1) State board of dental examiners continued; number, qualifications and terms.</p> <p>(2) Organization, meetings and bond of secretary-treasurer.</p> <p>(3) Fees charged by and per diem of board; compensation of and clerk for secretary-treasurer; accounting for funds received by board; report by.</p> <p>(4) Unlawful to practice dentistry without license; exception.</p> <p>(5) Definition of practicing dentistry; exceptions.</p> <p>(6) Who deemed to be practicing dental hygiene.</p> <p>(7) Qualification and examination of applicants for license.</p> | <p>(8) For what license may be revoked or suspended; procedure and appeal.</p> <p>(9) License to practice to be displayed in conspicuous place in office.</p> <p>(10) When board may license dentists moving into state from another state; provisions for temporary license, fee for.</p> <p>(11) Certificate to dentist moving to another state.</p> <p>(12) Fees for certificates.</p> <p>(13) Use of trade names to practice dentistry prohibited.</p> <p>(14) Dental hygienists, revocation of license.</p> <p>(15) Dental hygienists, fee for license for; qualifications.</p> |
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| <p>(16) Examination for dental hygienists to be both practical and theoretical.</p> <p>(17) When board may issue license to dental hygienists without examination: fee.</p> <p>(18) Penalty for filing diploma or license of another.</p> | <p>(19) Right of dentist to prescribe drugs and perform surgical operations.</p> <p>(20) Prosecuting attorney to prosecute violations of act.</p> <p>(21) Penalty for violation of act.</p> <p>(22) Inconsistent acts repealed.</p> |
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*Be it enacted by the Legislature of West Virginia:*

That section twenty-nine-a of chapter one hundred and fifty of the code, as last amended and re-enacted by chapter thirty-two of the acts of one thousand nine hundred and fifteen, be and the same is hereby amended and re-enacted so as to read as follows:

Section 29-a. (1) That the West Virginia state board of 2 dental examiners heretofore created be continued, to consist 3 of five practicing dentists, whose duty it shall be to make such 4 rules and regulations as are necessary to carry out the purposes 5 and enforce the provisions of this act as hereinafter specified. 6 The members of said board shall be graduates of reputable 7 dental colleges, schools or dental departments of a reputable 8 university, and at the time of their appointment upon said 9 board must have been actual residents and legally licensed 10 practicing dentists of this state for a period of five years, or 11 more, immediately preceding their appointment; *provided*, 12 *however*, that no person shall be eligible to appointment to 13 said board who is in any way connected with or interested in 14 any dental college or dental department of any institution of 15 learning, or dental supply business. The term for which the 16 members of said board shall hold office shall be five years, and 17 no person so appointed shall serve to exceed two consecutive 18 terms, *provided*, that the present members of the board in 19 office at the time of the passage of this act shall continue in 20 office until their respective terms have expired, or until their 21 successors are appointed and qualified.

22 (2) The said board of dental examiners shall choose one of 23 its members president, and one secretary-treasurer thereof, at 24 each annual meeting on the fourth Tuesday in June of each 25 year. Said board may meet oftener, if necessary, at the dis- 26 cretion of the board, at such place as it may deem proper, for 27 the examination of applicants who may desire to practice 28 dentistry or dental hygiene in this state, and for the transac- 29 tion of any other business that may come before it. Said 30 board shall keep a record in which shall be registered names,

31 addresses and license numbers of all persons legally entitled to  
32 practice dentistry or dental hygiene in this state. A majority  
33 of the members of said board shall at all times constitute a  
34 quorum for the transaction of business, and the proceedings  
35 of said board shall be recorded in a minute book open at all  
36 reasonable times to public inspection. The secretary-treasurer  
37 shall execute to the said board, bond, with approved security,  
38 for the faithful performance of his duties the amount of said  
39 bond to be determined by said board.

40 (3) Said board shall charge each person applying for an  
41 examination for a license to practice dentistry in this state an  
42 examination fee of twenty-five dollars and, in addition thereto,  
43 a fee of five dollars for every duplicate license issued by said  
44 board. Said board shall receive their actual and necessary  
45 expenses and ten dollars for each day actually spent in attend-  
46 ing its sessions and in necessary travel, to be paid from the  
47 fund collected under this act. The secretary-treasurer shall  
48 receive such compensation as may be fixed by the board, not  
49 to exceed the sum of three hundred dollars *per annum; pro-*  
50 *vided*, that such secretary-treasurer may, with the consent of  
51 said board, employ a stenographer or clerk to assist in the  
52 performance of his official duties; *provided, further*, that the  
53 state shall not be liable for the payment of any expense in-  
54 curred by said board under the provisions of this act. All  
55 moneys received under the provisions of this act shall be  
56 deposited and accounted for by the secretary-treasurer and  
57 shall be paid out by him upon the order of said board entered  
58 of record in its minute book, but not otherwise. Said board  
59 shall, on or before the first day of February of each year, make  
60 and file with the governor an annual report showing the total  
61 receipts and disbursements of said board for the preceding  
62 year and the governor may, in his discretion, require said  
63 board to pay into the state treasury any surplus funds then  
64 remaining in hands of said board.

65 (4) Any person practicing or offering to practice dentistry  
66 or dental hygiene in this state shall be required to submit  
67 evidence that he is qualified so to practice, and shall be licensed  
68 as hereinafter provided, and it shall be unlawful for any per-  
69 son to practice or offer to practice dentistry or dental hygiene  
70 in this state except under the provisions of this act. *Provided*,

71 *however*, nothing in this act shall be so construed as to apply  
72 to anyone already engaged in the practice of dentistry or  
73 dental hygiene.

74 (5) Any person shall be regarded as practicing dentistry  
75 within the meaning of this article, who shall diagnose or pro-  
76 fess to diagnose or treat or profess to treat any of the diseases  
77 or lesions of the oral cavity, teeth, gums or maxillary bones,  
78 or shall prepare to fill cavities in human teeth, correct mal-  
79 position of teeth, or jaws, or supply artificial teeth as sub-  
80 stitutes for natural teeth, or administer anaesthetics, general  
81 or local, in connection with any of the said work, or make  
82 dental x-ray negatives or pictures of the teeth, or make diag-  
83 nosis therefrom, or perform any other work included in the  
84 *curricula* of recognized dental colleges. To open an office for  
85 the practice of dentistry, or to announce to the public in any  
86 way a readiness to do any act defined herein as being dentistry,  
87 shall be deemed to be engaged in the practice of dentistry  
88 within the meaning of this article. *Provided, however*, that  
89 nothing in this article shall be so construed as to prevent a  
90 regularly licensed physician and surgeon from extracting teeth  
91 or treating any disease coming within the province of the  
92 practice of medicine; or to prohibit an unlicensed person from  
93 performing merely mechanical work upon inert matter in a  
94 dental office or laboratory or to prevent a *bona fide* student of  
95 dentistry from performing dental operations under the super-  
96 vision of competent instructors within a dental school or college  
97 or the dental department of a university recognized by the  
98 dental educational council of America; or to apply to a *bona*  
99 *fide* student of dentistry in the clinic room of a reputable  
100 dental school, college or department, or under the direct super-  
101 vision of a preceptor who is licensed to practice dentistry in  
102-104 this state.

105 (6) Any person other than a regularly licensed dentist shall  
106 be said to be practicing dental hygiene within the meaning of  
107 this act, who shall remove deposits, accretions and stains from  
108 the exposed surface of the teeth, and polish the same, or shall  
109 practice the use of escharotic drugs in or about the teeth, or  
110 shall make dental examinations of teeth and diagnose diseases  
111 of the same.

112 (7) An applicant for a license shall be of good moral

113 character, at least twenty-one years of age at the time of making  
114 the application, and the application shall be accompanied by  
115 satisfactory evidence that he is possessed of a general educa-  
116 tion, equal to that required for graduation from a first class  
117 high school of this state, and a graduate of and has a diploma  
118 from the faculty of a reputable dental college, dental school,  
119 or dental department of a reputable university rated as class  
120 A or class B by the dental educational council of America.  
121 The applicant shall pass an examination in the following  
122 branches: Anatomy, physiology, bacteriology, histology, path-  
123 ology, materia-medica, and therapeutics, anaesthetics, chem-  
124 istry, metallurgy, oral-surgery, cooperative dentistry, opera-  
125 tive dentistry, orthodontia, and such others as the board may  
126 from time to time deem proper. The examination shall be  
127 both written and clinical, and of such other character as to  
128 thoroughly test the qualifications of the applicant to practice  
129 dentistry. The board may, in its discretion, refuse to grant  
130 a license to any person whom they find guilty of cheating,  
131 deception or fraud during such examination. All manuscripts  
132 used in any examination shall be filed by the secretary of the  
133 board for safe keeping for a period of one year.

134 (8) The board shall have the power to revoke or to suspend  
135 the license of any dentist for any of the following causes:

136 1. His conviction of a crime involving moral turpitude,  
137 in which case a certified copy of the court record shall be  
138 conclusive evidence, upon receipt of which the board may  
139 revoke or suspend the license of the person so convicted.

140 2. For any violation of the provisions of this act.

141 3. For fraud or deceit in procuring admission to practice.

142 4. For the advertisement of a dental business in which  
143 untruthful or impossible statements are made; and habitual  
144 intemperance or gross immorality. In case any person shall  
145 make an accusation against any license under the second, third,  
146 or fourth subdivisions above, the same shall be reduced to  
147 writing, verified by some person familiar with the facts therein  
148 stated, and three copies thereof filed with the secretary of the  
149 board. If the board shall deem that the charges made are suffi-  
150 cient, if true, to warrant suspension or revocation of license, it  
151 shall make an order fixing the time and place for a hearing  
152 and requiring the accused to appear and answer thereto, such

153 order, together with a copy of the charges to be served upon  
154 the accused at least twenty days before the date set for a  
155 hearing either personally or by registered mail sent to his last  
156 known post office address. The person accused shall appear  
157 at the time and place fixed in the order and answer said  
158 charges and make his defense thereto unless for sufficient cause  
159 the board shall assign some other date. If he shall not appear  
160 the board may hear and determine the matter in his absence.  
161 If the accused pleads guilty, or if after a hearing he shall be  
162 found guilty by the board of any of the charges made, it may  
163 revoke, or suspend his license for a limited period and shall  
164 enter the order upon its records. Upon such hearing the board  
165 and accused may be represented by counsel, and the board  
166 shall have the power to take depositions and compel the attend-  
167 ance of witnesses by the issue of subpoenas under its seal and  
168 signed by the secretary. A licensee feeling himself aggrieved  
169 by the decision of the board may within ten days after revoca-  
170 tion or suspension of his license, take an appeal to the circuit  
171 court of the county in which he resided by filing with the  
172 clerk of the court an affidavit setting forth the substance of  
173 the proceedings had by the board, and the errors of law or  
174 questions of fact upon which he relies, and serving the secre-  
175 tary of the board with a copy thereof. The board shall within  
176 ten days of the service of such a copy, file with the circuit  
177 clerk a transcript of the proceedings had before it, whereupon  
178 the circuit court is hereby vested with the jurisdiction to hear  
179 and determine the questions of law and fact involved, as in  
180 appeals from justices of the peace, except that if the board  
181 prevails the judgment of the circuit court shall be that the  
182 decision of the board be affirmed, and if the licensee prevails  
183 the judgment of the court shall be that the proceedings against  
184 him be dismissed. Pending the hearing of the appeal the  
185 action of the board suspending or revoking the license shall  
186 be stayed.

187 (9) The license to practice dentistry or dental hygiene  
188 herein provided for, shall at all times be displayed in a con-  
189 spicuous place in the office of the holder thereof, and the  
190 person holding such license shall, whenever requested, exhibit  
191 the same to any member of the board of dental examiners.

192 (10) The board may, at its discretion, after an oral or

193 clinical examination, issue a license to practice dentistry to a  
194 legal and ethical practitioner of dentistry who removes to  
195 West Virginia from another state in which he conducted a  
196 legal practice of dentistry immediately preceding his removal,  
197 provided that such applicant shall present a certificate from  
198 the dental board, or a like board, of the state or territory from  
199 which he removes, certifying that he is a legal, competent den-  
200 tist, and of good moral character; *provided, further*, that such  
201 certificate shall be presented to the West Virginia board of  
202 dental examiners within six months after the date of its issue,  
203 and that the board of such other state or territory shall permit  
204 in like manner by law the recognition of licenses issued by the  
205 West Virginia board of dental examiners when presented to  
206 such other board by legal practitioners of dentistry from this  
207 state who may wish to remove to or practice in such other  
208 state or territory.

209 A director of dental clinic established under an act of the  
210 legislature may file the names of one or more dentists who are  
211 graduates of a reputable dental school or a dental department  
212 of a university, or the names of one or more dental hygienists  
213 licensed to practice in one or more states, and graduates from  
214 an authorized hygienist school in any country, with the secre-  
215 tary of the state board of dental examiners, who shall issue to  
216 him a temporary license for one year to practice while em-  
217 ployed by such dental clinic. The director of such clinic shall  
218 pay a fee of five dollars for each temporary license under this  
219 act. The board of dental examiners shall grant a temporary  
220 license to any graduate of a recognized school for the training  
221 of dental hygienists who is possessed of a license to practice  
222 dental hygiene in another state or territory, *provided*, that  
223 such temporary license shall terminate at the next succeeding  
224 examination for the purpose of granting license to practice  
225 dental hygiene, and that such temporary license shall not be  
226 renewed.

227 (11) Anyone who is a legal and competent practitioner of  
228 dentistry in this state, of good moral character, and known  
229 to the board of dental examiners as such, who shall desire to  
230 change his residence to another state or territory, or foreign  
231 country, shall, upon application to said board of dental exam-  
232 iners, receive a special certificate over the signature of the

233 president and secretary of said board, and bearing its seal,  
234 which shall attest the facts above mentioned, and give the date  
235 upon which he was licensed.

236 (12) The fee for issuing the license to a legal practitioner  
237 from another state, as provided in section twelve of this article,  
238 shall be fifty dollars, and the fee for issuing a certificate to a  
239 legal practitioner in this state, as provided in section twelve  
240 of this article, shall be five dollars, and in each case the fee  
241 shall be paid before the license or certificate, respectively, is  
242 issued.

243 (13) No person shall practice, or offer or undertake to prac-  
244 tice dentistry under any firm name or trade name, or under  
245 any name other than his own true name; *provided*, that noth-  
246 ing herein contained shall prohibit the practice of dentistry by  
247 a partnership under a firm name containing nothing but the  
248 surname of every member of said partnership.

249 (14) Any licensed dentist may employ assistants who shall  
249-a be known as dental hygienists. These hygienists may  
250 remove lime deposits, accretions and stains from the exposed  
251 surface of the teeth, and directly beneath the free margin of  
252 the gum, or administer preliminary or post-operative treatment  
253 for any dento-surgical operation, or administer prophylactic  
254 treatment to teeth and gums, but shall not perform any other  
255 operation on the teeth or on any diseased tissues of the mouth.  
256 They may practice in the office of any licensed dentist under  
257 his direct supervision, or in any industrial clinic, school clinic  
258 or state institutional clinic where they may practice under the  
259 general supervision of a licensed dentist. The state board of  
260 dental examiners may revoke the license of any dental hy-  
261 gienist who shall perform any operation other than that per-  
262 mitted under the provisions of this section.

263 (15) No person who has not heretofore been licensed as a  
264 dental hygienist in this state shall practice as a dental  
264-a hygienist in this state until he has passed an examina-  
265 tion given by the West Virginia board of dental examiners  
266 under such rules and regulations as it may formulate. The  
267 fee for the examination shall be ten dollars. The board of  
268 dental examiners shall issue licenses to practice dental hygiene  
269 in this state to those who have passed such examination;  
270 *provided, however*, that no person shall be entitled to such

271 license unless he be at least eighteen years of age, of good  
272 moral character, a graduate of a class A high school, or its  
273 equivalent, and a graduate of a training school for dental  
274 hygienists approved by the board of dental examiners; but  
275 where the applicant is not permitted to attend such school for  
276 dental hygienists, a license shall be issued to him if he possess  
277 all other requirements herein mentioned and pass the required  
278 examination.

279 (16) The examination of an applicant for a license to prac-  
280 tice dental hygiene shall be both practical and theoretical.

281 (a) The practical examination shall consist of such operative  
282 work as the board may deem proper, together with oral quiz-  
283 zing by the examiners.

284 (b) Theoretical examinations; anatomy; physiology; dental  
285 histology; bacteriology and sterilization; dental caries and  
286 malocclusion; oral prophylaxis.

287 (17) The board of dental examiners may, at its discretion,  
288 without the examination herein provided, issue a license to  
289 practice dental hygiene to any applicant therefor, who shall  
290 furnish proof satisfactory to the board that he has been duly  
291 licensed to practice as a dental hygienist in another state  
292 after full compliance with the requirements of its dental laws;  
293 *provided, however*, that his professional and preliminary edu-  
294 cation shall not be less than that required in this state, and that  
295 he shall have been in active practice at least two years previous  
296 to his application for a license. The fee for issuing a license  
297 to a legal practitioner of dental hygiene from another state  
298 shall be ten dollars, which shall be paid before the license is  
299 issued.

300 (18) Any applicant for license to practice dentistry or  
301 dental hygiene who shall file or attempt to file as his own the  
302 diploma or license of another, or a forged affidavit of identifi-  
303 cation or qualification, shall be guilty of a felony, and upon  
304 conviction thereof, shall be confined in the penitentiary not  
305 less than one nor more than three years, or imprisoned in the  
306 county jail not less than six nor more than twelve months, and  
307 fined not less than one hundred nor more than five hundred  
308 dollars, at the discretion of the court.

309 (19) A dentist or dental surgeon shall have the same rights  
310 to prescribe drugs or medicines, perform such surgical opera-

311 tions, administer general or local anaesthetics, and use such  
 312 appliances as may be necessary to the proper treatment of the  
 313 special class of diseases mentioned in this act, as are enjoyed  
 314 by registered physicians in this state. Druggists of this state  
 315 shall fill prescriptions of legally licensed dentists in this state  
 316 for any drugs necessary for the practice of dentistry.

317 (20) It shall be the duty of the prosecuting attorney of  
 318 each county in this state to prosecute all violations of the afore-  
 319 said provisions of this act in their respective counties in which  
 320 such violations occur.

321 (21) Any person, company or association, who shall violate  
 322 any of the provisions of this act shall be guilty of misdemeanor,  
 323 and upon conviction thereof, shall be fined not less than fifty  
 324 nor more than two hundred and fifty dollars.

325 (22) All acts and parts of acts in conflict with this act are  
 326 hereby repealed.

## CHAPTER 75

(House Bill No. 160—By Mr. Tabor)

AN ACT to amend and re-enact section nine, chapter one hundred and fifty, Barnes code, one thousand nine hundred and twenty-three, as amended by chapter thirty-nine of the acts of one thousand nine hundred and twenty-three, relating to qualifications of those desiring to practice medicine in the state of West Virginia.

[Passed March 2, 1929; in effect from passage. Approved by the Governor.]

SEC.

9. Qualifications of medical practitioners; when examination waived; provisions for examination; who

9-a. excluded from provisions of act. Permits to practice in prescribed areas; when revoked.

*Be it Enacted by the Legislature of West Virginia:*

That section nine, chapter one hundred and fifty Barnes' code of the year one thousand nine hundred and twenty-three, as amended by chapter thirty-nine of the acts of one thousand nine hundred and twenty-three be amended and re-enacted to read as follows:

Section 9. The following persons and no others shall hereafter be permitted to practice medicine in this state:

(1) All such persons as shall be legally entitled to practice

4 medicine in this state at the time of the passage of this act.  
5 (2) All such persons as shall be graduates of class "A"  
6 medical schools as classified by the council on education of  
7 the American Medical Association, American Association  
8 of Medical Colleges, the American Institute of Homeopathy,  
8-a National Eclectic Medical Association and American Osteo-  
8-b pathic Association, and then only from such schools when so  
9 classified as do require as a condition to entrance upon the  
10 study of medicine at least two years of academic work of  
11 collegiate grade in a standard college of arts and sciences of  
12 equal rank with the college of arts and sciences in the Uni-  
13 versity of West Virginia, who shall pass an examination be-  
14 fore said public health council and shall receive a certificate  
15 therefrom as hereinafter provided. *Provided, however,* that  
16 the public health council, or majority of them, may accept,  
17 in lieu of an examination the certificate of the National  
18 Board of Medical Examiners, or the certificate of license to  
19 practice medicine legally granted by the state board of regis-  
20 tration or examination or licensing board of another state,  
21 territory or any foreign country whose standard of qualifica-  
22 tion for the practice of medicine is equivalent to that of this  
23 state, and grant to the said applicant a certificate of license  
24 to practice medicine in this state; *provided* such states, terri-  
25 tories or foreign countries accord like privilege to licentiates  
26 of this state. The public health council shall at such times  
27 as a majority of them deem proper, hold examinations for  
28 the licensing of practitioners of medicine; such examinations  
29 shall not be less than two during the year, and shall be held  
30 at such points in the state as shall be most convenient for  
31 those presenting themselves for examination, or to the public  
32 health council; at such examinations, written and oral ques-  
33 tions shall be submitted for the applicants for license, cover-  
34 ing all the essential branches of the science of medicine and  
35 surgery, and the examination shall be a thorough and decis-  
36 ive test of the knowledge and ability of the applicants. The  
37 president and secretary of the public health council shall  
38 issue certificates to all who successfully pass the said exami-  
39 nation and to all those whose certificates said public health  
40 council or a majority of them shall accept in lieu of an ex-  
41 amination as hereinbefore provided, except that in all the  
42 certificates issued to applicants who adhere to the osteopathic

43 school it shall appear that it is for the practice of osteop-  
44 athy, and such certificates after being duly recorded as  
45 hereinafter provided, shall be deemed licenses to practice  
46 medicine, surgery and osteopathy in all their branches in  
47 this state. The public health council shall give timely notice  
48 of the time and place of holding such examinations in at  
49 least three newspapers of general circulation in this state,  
50 and all such persons wishing to present themselves for exam-  
51 ination shall notify the secretary and comply with the rules  
52 of the public health council. No applicant for license to  
53 practice medicine in this state shall be rejected because of  
54 his or her adherence to any particular school or theory of  
55 medicine. The public health council shall call to their  
56 assistance in the examination of any applicant who professes  
57 the homeopathic, osteopathic or eclectic school of medicine, a  
58 homeopathic, osteopathic or eclectic physician entitled to prac-  
59 tice medicine in this state under this act, and such homeo-  
60 pathic, osteopathic or eclectic physician so called to the  
61 assistance of the public health council, shall be allowed per  
62 diem and actual expenses incurred hereinbefore allowed the  
63 regular members of the public health council; *provided, how-*  
64 *ever,* that the provisions of this and the preceding section  
65 shall not apply to physicians living in other states and duly  
66 qualified to practice medicine therein, who shall be called in  
67 consultation into this state, by a physician legally entitled to  
68 practice medicine in this state under this chapter, and,  
69 *provided, further,* that the provisions of this chapter shall  
70 not apply to females practicing midwifery, or to commis-  
71 sioned officers of the United States army and navy and  
72 marine hospital service when in the actual discharge of their  
73 duties as such commissioned officers.

Sec. 9-a. Whenever in the judgment of the public  
2 health council a condition exists, in which medical service  
3 may be required, the said council is authorized to grant per-  
4 mits for the practice of medicine to qualified physicians in  
5 the prescribed areas and such permits shall be subject to  
6 revocation when the agreement, under which they were issued,  
7 has been violated.

## CHAPTER 76

(Senate Bill No. 244—By Mr. Helmick)

AN ACT to amend and re-enact section twelve of chapter seventy-five of Barnes' code, edition of one thousand nine hundred and twenty-three of West Virginia, relating to bonds of contractors on public works.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

**Sec.**

12. Bond required from contractor for erection or repair of public build-

ings; conditions and surety; recordation of bond.

*Be it enacted by the Legislature of West Virginia:*

That section twelve of chapter seventy-five of Barnes' code of West Virginia be amended and re-enacted to read as follows:

Section 12. It shall be the duty of the state board of control and of all county courts, boards of education, boards of trustees, and all other legal bodies having authority to contract for the erection, construction, improvement, alteration or repair of any public building or other structure, or any building or other structure used or to be used for public purposes, to require of every person to whom it shall award, and with whom it shall enter into, any contract for the erection, construction, improvement, alteration or repair of any such public building or other structure used or to be used for public purposes, that said contractor shall cause to be executed and delivered to the secretary of said board or other legal body, or other proper and designated custodian of the papers and records thereof, a good, valid, solvent and sufficient bond, in the penal sum equal at the least to the reasonable cost of the materials, machinery, equipment and labor required for the completion of said contract, and conditioned that in the event such contractor shall fail to pay in full for all such materials, machinery, equipment and labor delivered to him for use in the erection, construction, improvement, alteration or repair of such public building or other structure, or building or other structure used or to be used for public purposes, then said bond and the sureties thereon shall be responsible to said materialmen, furnisher of machinery or equipment, and furnisher or performer of said labor, or their assigns, for the full payment of the full value thereof. All such bonds shall have as surety thereon either some incorporated

27 bonding and/or surety company authorized to carry on busi-  
28 ness in the state of West Virginia, or in lieu of said corporate  
29 surety the contractor may deposit as surety for said bond with  
30 the said state board of control, county courts, boards of educa-  
31 tion, boards of trustees or other legal body having authority so  
32 to contract, a sum in cash or bonds and securities of the United  
33 States of America or of the state of West Virginia of sufficient  
34 amount and value equal at least to the reasonable cost of ma-  
35 terials, machinery, equipment and labor required for the com-  
36 pletion of said contract. Immediately upon the acceptance of  
37 either of said bonds by the state board of control, county courts,  
38 boards of education and boards of trustees, or other legal body,  
39 the bond shall be recorded by the secretary of the said board or  
40 other legal body or by the proper designated custodian of the  
41 papers or records thereof, in the office of the clerk of the county  
42 court of the county or counties wherein said work is to be done  
43 and where said materials, machinery or equipment are to be  
44 delivered and no such contract shall be binding and effective  
45 upon either party or parties thereto until such bond has been  
46 executed, delivered and recorded as aforesaid.

## CHAPTER 77

(Senate Bill No. 250—By Mr. Hugus)

AN ACT to amend and re-enact section three, chapter sixty-six of  
the acts of the legislature one thousand nine hundred and  
twenty-five, relating to the West Virginia Securities Law.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the  
Governor.]

SEC.

3. Definitions.

*Be it enacted by the Legislature of West Virginia:*

That section three, chapter sixty-six of the acts of the legislature  
one thousand nine hundred and twenty-five be amended and re-  
enacted to read as follows:

Section 3. When used in this act the following terms shall,  
2 unless the text otherwise indicates, have the following respective  
3 meanings:

4 (1) "Security" shall include any note, stock, treasury stock,

5 bond, debenture, evidence of indebtedness, certificate of interest  
6 or participation, certificate of interest in a profit-sharing agree-  
7 ment, certificate of interest in a syndicate agreement, certificate  
8 or share of or in an investment trust, certificate of interest in  
9 an oil, gas or mining lease, collateral trust certificate, pre-  
10 organization certificate, pre-organization subscription, any share,  
11 investment contract, or beneficial interest in or title to property,  
12 profits or earnings or any other instrument commonly known as  
13 a security.

14 (2) "Person" shall include a natural person, a corporation  
15 created under the laws of this or any other state, country, sover-  
16 eignty, or political subdivision thereof, a partnership, an as-  
17 sociation, a syndicate, a joint stock company, a trust and any  
18 unincorporated organization. As used herein the term "trust"  
19 shall be deemed to include a common law trust, but shall not in-  
20 clude a trust created or appointed under or by virtue of a last  
21 will and testament, or by a court of law or equity, or any public  
22 charitable trust.

23 (3) "Sale" or "sell" shall include every disposition, or at-  
24 tempt to dispose, of a security or interest in a security for value.  
25 Any security given or delivered with, or as a bonus on account  
26 of, any purchase of securities or any other thing, shall be con-  
27 clusively presumed to constitute a part of the subject of such  
28 purchase and to have been sold for value. "Sale" or "sell"  
29 shall also include an exchange, an attempt to sell, an option of  
30 sale, a solicitation of a sale, a subscription or an offer to sell,  
31 directly or by an agent, or by a circular, letter, advertisement  
32 or otherwise.

33 (4) "Dealer" shall include every person other than a sales-  
34 man who in this state engages either for all or part of his time  
35 directly or through an agent in the business of selling any  
36 securities issued by another person or purchasing or otherwise  
37 acquiring such securities from another for the purpose of re-  
38 selling them or of offering them for sale to the public, or offer-  
39 ing, buying, selling or otherwise dealing or trading in securities  
40 as agent or principal for a commission or at a profit, or who deals  
41 in futures or differences in market quotations of prices or values  
42 of any securities or accepts margins on purchases or sales or pre-  
43 tended purchases or sales of such securities; *provided*, that the  
44 word "dealer" shall not include a person having no place of  
45 business in this state who sells or offers to sell securities ex-

46 elusively to brokers or dealers actually engaged in buying and  
47 selling securities as a business.

48 (5) "Issuer" shall mean and include every person who pro-  
49 poses to issue, has issued, or shall hereafter issue any security.  
50 Any natural person who acts as a promoter for and on behalf of  
51 a corporation, trust or unincorporated association or partner-  
52 ship of any kind to be formed shall be deemed to be a issuer.

53 (6) "Salesman" shall include every natural person, other  
54 than a dealer, employed or appointed or authorized by a dealer,  
55 or issuer to sell securities in any manner in this state. The  
56 partners of a partnership and the executive officers of a corpora-  
57 tion or other association registered as a dealer shall not be sales-  
58 men within the meaning of this definition.

59 (7) "Agent" shall mean salesman as hereinabove defined.

60 (8) "Commissioner" shall mean the commissioner of  
61 securities.

## CHAPTER 78

(House Bill No. 30—By Mr. McGlothlin)

AN ACT providing for the creation of a permanent endowment  
fund for cemetery associations, the income from which is to  
be annually applied to the beautifying and maintaining of  
cemeteries and providing for the appointment of trustees  
therefor.

[Passed March 5, 1929; in effect ninety days from passage. Approved by the  
Governor.]

<p>Sec. 1. Permanent endowment funds for cemetery associations. 2. How created.</p>		<p>3. How invested; report by trustee. 4. Trustee for; how appointed; bond of; vacancy; how filled.</p>
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*Be it enacted by the Legislature of West Virginia:*

Section 1. There is hereby authorized the creation of per-  
2 manent endowment funds for cemetery associations to be  
3 known as "permanent endowment funds", the income from  
4 which is to be annually spent by such cemetery associations,  
5 or their successors, in beautifying and maintaining cemeteries  
6 owned or controlled by such associations.

Sec. 2. The "permanent endowment funds" are to be  
2 created by depositing in said fund all permanent funds de-

3 rived from all sources set apart by the board of directors of  
4 such associations, and by donations, gifts, and bequests made  
5 to such cemetery associations for such purpose.

Sec. 3. The principal of such permanent endowment funds  
2 shall be invested in some safe securities, to be approved by  
3 the board of directors of such cemetery association, or its suc-  
4 cessors, in the name of a trustee appointed as hereinafter  
5 provided. Such trustee shall make an annual report to the  
6 board of directors of such cemetery association showing the  
7 amount of the permanent endowment fund, at the beginning  
8 of each year, the names of the donors, if any, and the  
9 amounts contributed by each during the year in which the  
10 report is made, the income derived from the said fund dur-  
11 ing the year, and the amount on hand at the end of the year;  
12 and a copy of said report is to be annually filed with the  
13 clerk of the county court of the county in which said ceme-  
14 tery association is located. The trustee during the year, or  
15 at the end thereof, shall turn over to such cemetery associa-  
16 tion, or its succesor, all income derived from said permanent  
17 endowment fund during the year, which shall be expended in  
18 accordance with this act.

Sec. 4. The board of directors of any such cemetery asso-  
2 ciation, shall, be within ninety days after the passage of this act,  
3 appoint a trustee, who shall be a responsible business man or  
4 some solvent and reliable bank or trust company, to act as  
5 such trustee for a period of two years, or until his, or its,  
6 successor is appointed. Such trustee shall be known as the  
7 trustee of the permanent endowment fund of such cemetery  
8 association, and shall immediately upon his, or its, appoint-  
9 ment and acceptance of the trust, give bond, to the said  
10 cemetery association, with some solvent and reliable bonding  
11 company authorized to do business in the state of West Vir-  
12 ginia under the laws thereof, in a sum equal to the amount  
13 which may come into the hands of said trustee, which bond  
14 shall be increased or diminished from time to time to always  
15 at least equal the amount of the trust funds in the hands of  
16 said trustee; and the premium upon said bond shall be paid  
17 out of the income of the trust funds in said trustee's hands  
18 and as part of the cost of the administration of said trust  
19 fund. No trustee appointed under this act shall enter upon

20 the discharge of his, or its, duties until such bond is given  
 21 and approved by the board of directors of said cemetery asso-  
 22 ciation; and boards of directors of said cemetery associations  
 23 shall not allow to any such trustee, for service as such, a sum  
 24 in excess of two per cent of the annual net income from such  
 25 trust funds. In the event of a vacancy in said trusteeship,  
 26 or failure of the board of directors of any such cemetery asso-  
 27 ciation to appoint such trustee, after being requested so to do  
 28 by any stockholder of any such cemetery association or its  
 29 successor, or any citizen interested, application may be made  
 30 to the circuit court of the county wherein such cemetery  
 31 association is located, and it shall be the duty of the circuit  
 32 court of said county to appoint a trustee, who, when so ap-  
 33 pointed and qualified, shall have all the powers and perform  
 34 all the duties of such trustee as provided in this act.

35 All acts or parts of acts inconsistent with this act are here-  
 36 by repealed.

## CHAPTER 79

(House Bill No. 64—By Mr. Hogg)

AN ACT to amend and re-enact section eight of chapter sixty-four  
 of the acts of the legislature of West Virginia of one thou-  
 sand nine hundred and twenty-five, relating to conditional  
 sales, making said section apply to conditional sales of com-  
 mercial water-craft and barges and the equipment thereon.

[Passed February 5, 1929; in effect from passage. Approved by the Governor.]

SEC. 8.	When sale of railroad, street or in- terurban railway equipment not		valid unless acknowledged and recorded; how property marked.
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*Be it enacted by the Legislature of West Virginia:*

That section eight of chapter sixty-four of the acts of the legis-  
 lature of the state of West Virginia for the year one thousand  
 nine hundred and twenty-five, relating to conditional sales, be  
 amended and re-enacted so as to read as follows:

Section 8. No conditional sale of railroad or street or in-  
 2 terurban railway equipment or rolling stock or of commercial  
 3 watercraft or barges or any equipment thereon shall be valid  
 4 as against the purchasers and creditors described in section

5 five, unless the contract shall be acknowledged by the buyer  
6 or attested in like manner as a deed of real property and the  
7 contract, or a copy thereof, shall be recorded in the office of  
8 the secretary of state; and unless when any engine or car or  
9 such watercraft or barge so sold is delivered, there shall be  
10 then plainly and conspicuously marked upon each side thereof  
11 the name of the seller, followed by the word "owner."

## CHAPTER 80

(House Bill No. 84—By Mr. McIntire)

AN ACT to define the manner and method of sale of county and district owned property.

[Passed March 2, 1929; in effect ninety days from passage. Approved by the

SEC.

1. Sale of county or district owned property: how made; limitation of.

*Be it enacted by the Legislature of West Virginia:*

That in all instances where the county court of a county is by law authorized to sell or dispose of any property either real or personal belonging to the county or any district thereof, the same shall be sold at public auction, at the front door of the courthouse of the county, and such sale shall be conducted by the president of the county court, but before making any such sale, notice of the time, terms and place of sale shall be given by publication thereof, for two consecutive weeks in some newspaper of general circulation in said county, which notice shall contain a brief description of the property to be sold, *provided, however,* that this act shall not apply to the sale of any one item of property of less value than one thousand dollars.

## CHAPTER 81

(Com Sub. for House Bill No. 118—By Mr. Stephens)

AN ACT to provide for the preparation and publication of a roster, West Virginia soldiers, sailors and marines.

[Passed March 9, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

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|---|--|---|
| 1. Roster of West Virginia soldiers<br>sailors and marines, Spanish-<br>American and World Wars; how<br>made. |  | 2. Contents of.<br>3. Contract for printing of.<br>4. Distribution of.<br>5. Appropriation for. |
|---|--|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the adjutant general of West Virginia is 2 hereby authorized to prepare and secure the publication in 3 book form of a complete roster of all West Virginia soldiers, 4 sailors and marines who entered the service of the United 5 States in the war with Spain in one thousand eight hundred 6 and ninety-eight and in the war with the central powers in 7 Europe in one thousand nine hundred and seventeen and one 8 thousand nine hundred and nineteen. The preparation and 9 publication of such roster shall be under the direction and 10 supervision of the adjutant general who shall employ such 11 assistants and incur such expenses as may be necessary and the 12 compensation of such assistants and such expenses shall be paid 13 out of the state treasury on the warrant of the auditor from the 14 funds hereinafter appropriated under section five hereof upon 15 presentation of voucher signed by the adjutant general.

Sec. 2. Such roster shall contain the principal items of the 2 record of each soldier, sailor or marine as shown by the rolls 3 in the office of the adjutant general of the state of West Vir- 4 ginia and in the war and navy departments of the United 5 States, and shall include a notation of all decorations bestowed 6 upon any soldier, sailor or marine by the United States or any 7 foreign governments. In the preparation of such roster all 8 names shall be arranged in alphabetical order if possible or in 9 such a manner as to render all information therein readily 10 accessible. Preparation of the roster shall begin as soon as 11 possible and continue until the work is completed.

Sec. 3. The contract for the printing of the roster shall be 2 let to the lowest and best bidder and such contract may be let 3 for the entire roster or bids may be taken for the printing of 4 each volume as completed. Not more than one thousand

5 copies or sets of such roster shall be printed and when completed shall be delivered to the adjutant general.

Sec. 4. The distribution of said volumes shall be under the direction of the adjutant general and shall be as follows:

To each member of the legislature of the year one thousand nine hundred and twenty-nine two copies or sets;

To each elective state officer to be kept as a part of the official records of his office one copy or set;

To the department of archives and history one hundred copies or sets for distribution or exchange;

To the adjutant general two copies or sets to be retained permanently;

To each public library of the state one copy or set;

To each college or university library one copy or set;

To the county clerk of each county of the state of West Virginia to be kept by his office and transferred to his successor as other public records one copy or set;

To the adjutant general of each state one copy or set;

To the state headquarters of each active, independent veterans organization or society having two or more subordinate posts, camps or societies within the state of West Virginia one copy or set.

The remainder of said copies after said distribution shall be delivered by the adjutant general to the superintendent of public printing of the state of West Virginia and shall be placed on sale by the said superintendent of public printing at a price not greater than the cost of publication. The superintendent of public printing shall keep a record of such sales and shall pay into the state treasury weekly all the amounts received by him as the result of sale of such roster.

Sec. 5. For the preparation and printing of the roster, as provided for in this act, there shall be appropriated a sum not to exceed ten thousand dollars.

## CHAPTER 82

(House Bill No. 126—By Mr. Hogg)

AN ACT to provide for a veterans' guardianship and commitment act and to make uniform the law with relation thereto.

[Passed March 9, 1929; in effect from passage. Approved by the Governor.]

Sec.

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|--|---|
| <ol style="list-style-type: none"> <li>1. When guardian or committee may be appointed.</li> <li>2. When unlawful to appoint; removal.</li> <li>3. Petition for appointment; contents.</li> <li>4. When necessity for appointment exists.</li> <li>5. What petition for mentally incompetent must show.</li> <li>6. Notice of filing of petition.</li> <li>7. Qualification and bond of guardian.</li> <li>8. Settlement of account of guardian.</li> <li>9. Removal for failure to make settle-</li> </ol> | <ol style="list-style-type: none"> <li>ment.</li> <li>10. Compensation of guardian.</li> <li>11. Investment of funds by guardian.</li> <li>12. Estate of ward, how disbursed.</li> <li>13. Copy of public record furnished without cost.</li> <li>14. Hospitalization of veteran.</li> <li>15. Discharge of guardian.</li> <li>16. Act applies only to beneficiaries of federal government.</li> <li>17. How act cited.</li> <li>18. How act interpreted.</li> <li>19. When part of act invalid.</li> <li>20. Repealing inconsistent acts.</li> </ol> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. Whenever, pursuant to any law of the United States or regulation of any bureau or agency thereof, the appointment of a guardian, or committee for any person to act in a fiduciary capacity is required prior to a payment of benefits, pensions, compensation for service or for any other reason for which payments are due from the government of the United States or any agency thereof, such appointment shall be made in the manner hereinafter provided.

Sec. 2. Except as hereinafter provided, it shall be unlawful for any person to accept appointment as guardian of any ward if such proposed guardian shall at that time be acting as guardian for five wards. In any case, upon presentation of a petition alleging that a guardian is acting in a fiduciary capacity for more than five wards and requesting his discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian and shall discharge such guardian in said case, upon his delivery to a successor properly qualified, the property with which he was chargeable.

11-a The limitations of this section shall not apply where the guardian is a bank or trust company acting for the wards' estates only. An individual may be guardian of more than five wards if they are all members of the same family.

Sec. 3. A petition for the appointment of a guardian may be filed in any court of competent jurisdiction by or on behalf of any person who under existing law is entitled to priority of appointment. If there be no person so entitled or if the person so entitled shall neglect or refuse to file such petition within thirty days after mailing of notice by the bureau or other agency of the government of the United States directly

8 interested in the payment of the sums due the person or per-  
9 sons to the last known address of such person indicating the  
10 necessity for the same, a petition for such appointment may  
11 be filed in any court of competent jurisdiction by or on be-  
12 half of any responsible person residing in this state.

13 The petition for appointment shall set forth the name, age,  
14 place of residence of the ward, the names and places of resi-  
15 dence of the nearest relative, if known, and the fact that  
16 such ward is entitled to receive moneys payable from the  
17 government of the United States and shall set forth the  
18 amount of moneys then due and the amount of probable  
19 future payments.

20 The petition shall also set forth the name and address of  
21 the person or institution, if any, having actual custody of  
22 the ward.

23 In the case of a mentally incompetent ward the petition  
24 shall show that such ward has been rated incompetent on ex-  
25 amination by an examining board employed or convened by  
26 the government of the United States in accordance with the  
27 laws and regulations governing the bureau or agency of  
28 the government from which payments are to be made.

Sec. 4. Where a petition is filed for the appointment of  
2 a guardian of a minor ward a certificate setting forth the  
3 age of such minor as shown by the records and the fact that  
4 the appointment of a guardian is a condition precedent to  
5 the payment of any moneys due the minor by the govern-  
6 ment of the United States shall be *prima facie* evidence of the  
7 necessity for such appointment.

Sec. 5. Where a petition is filed for the appointment of  
2 a guardian or committee of a mentally incompetent ward a cer-  
3 tificate setting forth the fact that such person has been rated  
4 incompetent by an examining board employed or convened by  
5 the government of the United States on examination in accord-  
6 ance with the laws and regulations governing such bureau  
7 or agency of government from which payments are to be  
8 made; and that the appointment of a guardian is a condition  
9 precedent to the payment of any moneys due such person,  
10 shall be *prima facie* evidence of the necessity for such  
11 appointment.

Sec. 6. Upon the filing of a petition for the appointment of a guardian or committee under the provisions of this act, the court shall cause such notice to be given as provided by law.

Sec. 7. Before making an appointment under the provisions of this act the court shall be satisfied that the guardian whose appointment is sought is a fit and proper person to be appointed. Upon the appointment being made the guardian shall execute and file a bond to be approved by the court in an amount not less than the sum then due and estimated to become payable during the ensuing year. The said bond shall be in the form and be conditioned as required of guardian appointed under the guardianship laws of this state. The court shall have power from time to time to require additional bond. No such bond tendered by a guardian or committee appointed under the provisions of this act shall be valid unless the surety thereon shall be a solvent surety or bonding company authorized to and legally doing business in this state. And the premiums on such bond shall be properly payable out of the estate in the hands of such guardian or committee. *Provided, however,* that where the total estate coming into the hands of such guardian or committee shall at no time exceed the sum of five hundred dollars, then a bond with personal sureties, with at least three such sureties thereon, may be accepted, if such personal sureties are solvent and are worth, respectively, the amount named as the penalty of the bond.

Sec. 8. Every guardian, who shall receive on account of his ward any moneys from the government of the United States or any agency thereof, shall file with the commissioner of accounts annually, on the anniversary date of the appointment, or within thirty days thereafter, in addition to such other accounts as may be required, a full, true, and accurate account under oath of all moneys so received by him, of all disbursements thereof, and showing the balance thereof in his hands at the date of such account and how invested. A certified copy of each of such accounts filed with the commissioner of accounts shall be sent by the guardian to the office of the bureau or other agency of the government having jurisdiction over the area in which such court is located and from which payments are made. The commissioner of ac-

14 counts shall fix a time and place for the hearing on such ac-  
15 count not less than fifteen days nor more than thirty days  
16 from the date of filing same and notice thereof shall be given  
17 by the commissioner of accounts to the aforesaid bureau or  
18 other agency of the government not less than fifteen days prior  
19 to the date fixed for the hearing. Notice of such hearing shall  
20 in like manner be given to the guardian.

Sec. 9. If any guardian shall fail to file any account of  
2 the money received by him from the bureau or other agency  
3 of the government on account of his ward within thirty days  
4 after such account is required by either the commissioner  
5 of accounts or the bureau or other agency of the government,  
6 or shall fail to furnish the bureau or other agency of the gov-  
7 ernment a copy of his accounts as required by this act, such  
8 failure shall be grounds for a removal.

Sec. 10. Compensation payable to guardian shall not ex-  
2 ceed five per cent of the income of the ward during any year.  
3 In the event of extraordinary services rendered by such  
4 guardian the circuit court may, upon petition and after hear-  
5 ing thereon, authorize additional compensation therefor payable  
6 from the estate of the ward. Notice of such petition and  
7 hearing shall be given the proper office of the bureau or  
8 other agency of the government in the manner provided in  
9 section eight. No compensation shall be allowed on the  
10 corpus of an estate received from a preceding guardian.  
11 The guardian may be allowed from the estate of his ward  
12 reasonable premiums paid by him to any corporate surety  
13 upon his bond.

Sec. 11. Every guardian shall invest the funds of the es-  
2 tate in such manner or in such securities, in which the  
3 guardian has no interest, as allowed by law or approved by  
4 the court.

Sec. 12. A guardian shall not apply any portion of the  
2 estate of his ward for the support and maintenance of any  
3 person other than his ward, except upon order of the court,  
4 and after a hearing, reasonable notice of which has been given  
5 the proper office of the bureau or other agency of the govern-  
6 ment directly interested in the payment of moneys to said  
7 guardian for his ward, in the manner provided in section eight.

Sec. 13. Whenever a copy of any public record is required by the bureau or other agency of the government to be used in determining the eligibility of any person to participate in benefits made available to such agency, the official charged with the custody of such public record shall without charge provide the applicant for such benefits or any person acting on his behalf or the representative of such agency with a certified copy of such record.

Sec. 14. Whenever it appears that a veteran of any war, military occupation or expedition is eligible for treatment in a United States hospital and commitment to such hospital is necessary for the proper care and treatment of such veteran, the county court, or other tribunal in lieu thereof, of the county in which such veteran resides is hereby authorized to communicate with the official in charge of such hospital with reference to available facilities and eligibility, and upon receipt of a certificate from the official in charge of such hospital the court may then direct such veteran's commitment to such United States hospital. Thereafter such veteran upon admission shall be subject to the rules and regulations of such hospital and the officials of such hospital shall be vested with the same powers now exercised by superintendents of state hospitals for mental diseases within this state with reference to the retention of custody of the veteran so committed. Notice of such pending proceedings shall be furnished the person to be committed and his right to appear and defend shall not be denied.

Sec. 15. When a ward for whom a guardian has been appointed under the provisions of this act or other laws of this state shall have attained his or her majority, and if incompetent shall be declared competent by the examining board employed or convened by the bureau or other agency of the government of the United States, and the court, and when any incompetent ward, not a minor, shall be declared competent by said examining board employed or convened by the bureau or other agency of the government of the United States and the court, the guardian shall upon making a satisfactory accounting be discharged upon a petition filed for that purpose.

Sec. 16. This act shall be construed liberally to secure the 2 beneficial intents and purposes thereof, and shall apply only 3 to beneficiaries of the government of the United States.

Sec. 17. This act may be cited as the "uniform veterans' 2 guardianship act."

Sec. 18. This act shall be so interpreted and construed 2 as to effectuate its general purpose to make uniform the 3 law of those states which enacted it.

Sec. 19. The invalidity of any portion of this act shall 2 not affect the validity of any other portion thereof which 3 can be given effect without such invalid part.

Sec. 20. All laws or parts of laws relating to bene- 2 ficiaries of the states inconsistent with this act are hereby 3 repealed.

## CHAPTER 83

(House Bill No. 140—By Mr. McIntire)

AN ACT to amend and re-enact section fifty-nine of chapter fifteen of Barnes' code of one thousand nine hundred and twenty-three, relating to labor.

[Passed February 25, 1929; in effect ninety days from passage. Approved by the Governor.]

<p>Sec. 1. Protection from dangerous, power- driven and other machinery;</p>		<p>provisions concerning scaffolding, etc.; when first aid equipment shall be kept on hand.</p>
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*Be it enacted by the Legislature of West Virginia:*

That section fifty-nine of chapter fifteen of Barnes' code of one thousand nine hundred and twenty-three be amended and re-enacted so as to read as follows:

Section 59. All power driven machinery, including, all 2 saws, planers, wood shapers, jointers, sand paper machines, 3 iron mangles, emery wheels, ovens, furnaces, forges and rollers 4 of metal; all projecting set screws or moving parts; all drums, 5 cogs, gearing, belting, shafting, fly wheels and flying shuttles; 6 all laundry machinery, mill gearing and machinery of every 7 description; all vats or pans and all receptacles containing 8 molten metal or hot or corrosive fluids in any factory, mer- 9 cantile establishment, mill or workshop, shall be located, when-

10 ever possible, as not to be dangerous to employees or, where  
11 possible, be properly enclosed, fenced or otherwise protected.  
12 All dangerous places in or about mercantile establishments,  
13 factories, mills or workshops, near to which any employee is  
14 obliged to pass or to be employed, shall, where possible, be  
15 properly enclosed, fenced or otherwise guarded. No machine  
16 in any factory, mercantile establishment, mill or workshop,  
17 shall be used when the same is known to be dangerously de-  
18 fective, and no repairs shall be made to the active mechanism  
19 or operative part of any machine when the machine is in  
20 motion. The state commissioner of labor is authorized to  
21 adopt the codes promulgated by the American society of  
22 mechanical engineers and approved by the United States de-  
23 partment of labor, relating to the construction of scaffolding,  
24 hoists and temporary flooring of buildings two or more stories  
25 in height, in the course of erection. All factories, mills or  
26 workshops employing five or more people in the mechanical  
27 department shall keep on hand, easily accessible, necessary  
28 first aid equipment recommended by the bureau of labor and  
29 approved by the state health department.

## CHAPTER 84

(House Bill No. 212—By Mr. Hiner)

AN ACT to amend and re-enact section thirty-eight of chapter ninety-six of the acts of the legislature, regular session, of one thousand eight hundred and eighty-two, relating to the issuance of duplicate certificates of corporate stock when the original has been lost, being section thirty-eight of chapter fifty-three of Barnes' code, one thousand nine hundred and twenty-three.

[Passed March 6, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

38. Provisions concerning duplicate certificates of corporate stock.

*Be it Enacted by the Legislature of West Virginia:*

That section thirty-eight of chapter ninety-six of the acts of the legislature, regular session, one thousand eight hundred and eighty-two, being section thirty-eight of chapter fifty-three of

Barnes' code one thousand nine hundred and twenty-three, be amended and re-enacted so as to read as follows:

Section 38. Unless otherwise provided for by the by-laws 2 of the corporation, when a person to whom a certificate has been 2-a issued, alleges it to have been lost, he shall file in the office 3 of the corporation, first, an affidavit setting forth the time, 4 place and circumstances of the loss, to the best of his knowl- 5 edge and belief; second, proof of his having advertised the 6 same in a newspaper of general circulation, published near 7 the principal office of the corporation, once a week for four 8 weeks; and third, a bond to the corporation, with one or more 9 sufficient sureties, conditioned to indemnify the corporation 10 and all persons against any loss in consequence of a new 11 certificate being issued in lieu of the former. And there- 12 upon the board of directors shall cause to be issued to him 13 a new certificate, or duplicate of the certificate alleged to be 14 lost.

15 A new certificate may be issued in lieu of the one lost, 16 in the discretion of the board of directors without requiring 17 the publication of the above notice or the giving of a bond.

## CHAPTER 85

(House Bill No. 250—By Mr. Keatley)

AN ACT to amend and re-enact chapter forty-eight of the code of West Virginia, as amended and re-enacted by chapter one hundred and three of the acts of the legislature of one thousand nine hundred and twenty-one, by adding thereto and as a part thereof sections twelve-c and twelve-d, relating to doors in buildings used for public assemblages and open to the public, and to the duties of the state fire marshal with reference thereto.

[Passed March 2, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

12-c. State fire marshal may require exit doors to swing outward; exemption; penalty for failure

12-b. How penalty determined and recovered.

*Be it enacted by the Legislature of West Virginia:*

That chapter forty-eight-a of the code of West Virginia, as amended and re-enacted by chapter one hundred and three of the acts of the legislature of one thousand nine hundred and twenty-one, be amended and re-enacted by adding thereto and as a part thereof sections twelve-c and twelve-d to read as follows:

Section 12-c. The state fire marshal shall have authority to  
2 require exit doors to swing out on all school houses, churches,  
3 theaters, and all other buildings used for public assemblages  
4 or which are open to the general public. *Provided*, this act  
5 shall not apply to one and two room school houses and  
6 country churches. Failure to comply within a reasonable  
7 time with an order of the state fire marshal or one of his  
8 deputies, to provide such equipment, or to make alterations  
9 necessary to comply with such order, shall subject the  
10 owner of the property or his agent to a penalty of not less  
11 than ten dollars nor more than fifty dollars for each day the  
12 violation of such order continues.

Sec. 12-d. The penalty shall be determined by the state  
2 fire marshal, in his discretion, and recovery shall be had  
3 in an action brought by him before a justice of the peace, or  
4 other proper tribunal, in the county wherein the property  
5 involved is located, or where the owner or agent thereof  
6 resides.

## CHAPTER 86

(House Bill No. 305—By Mr. Gay)

AN ACT to provide for the safe development and operation of oil and gas wells through workable coal seams by regulating the locating, drilling, casing, plugging and abandonment of natural gas and petroleum wells, and coal mining operations within the vicinity of such wells; providing administrative and judicial procedure and penalties for any violation of this act or any lawful order issued under authority thereof, and repealing all laws or parts of laws inconsistent herewith.

[Passed March 7, 1929; in effect ninety days from passage. Approved by the Governor.]

## Sec.

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| <ol style="list-style-type: none"> <li>1. Definitions.</li> <li>2. When plat required for drilling; what to show.</li> <li>3. When drilling permit to be granted; procedure when objection is made; when new location may be suggested; docket of plats and notices.</li> <li>4. Exceptions by coal operator to approved location, procedure on; appeals to circuit and supreme courts.</li> <li>5. Provision when well penetrates workable coal beds.</li> <li>6. Use of packers and diversion of gas.</li> <li>7. Casings for productive gas or petroleum wells.</li> <li>8. Size of drill holes and use of liners.</li> <li>9. Notice of abandonment and plugging of wells; affidavit concerning.</li> </ol> | <ol style="list-style-type: none"> <li>10. How abandoned wells filled and plugged.</li> <li>11. When coal operator to file maps and plans; notice of to well operator; application to remove coal; notice of petition to well operator and procedure on; appeals concerning.</li> <li>12. Supervision and power of department of labor over wells and mining operations; hearings and findings of fact by; orders by department and appeals therefrom; department of labor to prescribe rules of procedure for hearing of evidence and administration of act; appeals to circuit and supreme courts, how obtained and hearing on.</li> <li>14. Penalties for violation of act.</li> <li>15. Inconsistent acts repealed.</li> </ol> |
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*Be it enacted by the legislature of West Virginia:*

Section 1. That the term "well" when used in this act means a bore hole drilled or proposed to be for the purpose of producing natural gas or petroleum, or through which natural gas or petroleum, are being produced; the term "well operator" shall include any person or persons, fire, partnership, partnership association or corporation that proposes or does locate, drill, operate or abandon any well as herein defined; the term "coal operator" shall include any person or persons, firm, partnership or partnership association or corporation that proposes to or does operate a coal mine; the term "department" or "department of mines" includes the duly constituted authorities under the laws of the state of West Virginia having jurisdiction over coal mining operations; the term "plat" means a map, drawing or print showing the location of a well or wells as herein defined; the term "casing" means a string or strings of pipe commonly placed in wells drilled for natural gas and petroleum; the terms "oil" and "gas" are synonyms for petroleum and natural gas respectively; the term "cement" means hydraulic cement properly mixed with water only; the term "workable coal bed" means a coal bed in fact being operated commercially or which in the judgment of the department of mines, can and that it is reasonably to be expected will be so operated and which, when operated, will require protection if wells are drilled through it.

Sec. 2. Before drilling for oil or gas on any tract of land 2 known to be underlain with one or more workable beds of 3 coal, the well operator shall have a plat prepared by a com- 4 petent engineer showing the district and county in which 5 the tract of land is located, the name and acreage of the 6 same, and names of the owners of adjacent tracts, and the 7 proposed location of the well determined by survey and the 8 courses and distances of such location from two permanent 9 points or landmarks on said tract and the number to be 10 given the well, and shall forward by registered mail a copy 11 of the plat to the department of mines and copies to each 12 and every coal operator, if any, operating said beds of coal 13 beneath said tract of land or within five hundred feet of 14 the boundaries of the same, who has mapped the same and 15 filed his maps as required by law. With each of said plats 16 there shall be enclosed a notice (form for which shall be 17 furnished on request by the department of mines) addressed 18 to the department of mines and to each such coal operator 19 at their respective addresses, informing them that said plat 20 and notice are being mailed to them respectively by regis- 21 tered mail, pursuant to the requirements of this act. If 22 no objections are made to such proposed location within ten 23 days from receipt of said plat and notice by the department 24 of mines, the same shall be filed and become a permanent 25 record of said location, subject to inspection at any time by 26 any interested person. The notice above provided for may 27 be given to the coal operator by delivering or mailing it as 28 above to any agent or superintendent in actual charge of 29 mines

Sec. 3. In case any such location is made above or in close 2 proximity to any mine opening or shaft, entry, traveling, 3 air, haulage, drainage or other passage-way, or to any pro- 4 posed extension thereof in any operated or abandoned or 5 operating coal mine, or coal mine already surveyed and 6 platted, but not yet being operated, so that the well or the 7 pillar of coal about the well necessary to the protection of 8 the mine and of the well itself when drilled will interfere 9 with or endanger the use of such mine opening, entries or 10 ways, then the coal operator or operators affected may, and 11 shall, if the drilling of a well at such proposed location will

12 cause a dangerous condition in their mine or mines, within  
13 ten days from the receipt of said plat or notice by the de-  
14 partment of mines, file objections in writing (forms for  
15 which will be furnished by the department on request) to  
16 such proposed location with the department of mines, setting  
17 out therein as definitely as is reasonably possible the ground  
18 or grounds on which such objections are based and indicat-  
19 ing the direction and distance from the location shown the  
20 proposed well should be drilled to overcome such objections.  
21 If no such objections be filed, or be found, by the depart-  
22 ment of mines, within said period of ten days, to said pro-  
23 posed location, the department shall forthwith issue to the  
24 well operator a drilling permit reciting the filing of such  
25 plat, that no objections have been made by the coal opera-  
26 tors to the location, or found thereto by the department, and  
27 that the same is approved and the well operator authorized  
28 to proceed to drill at said location.

29 If any objection or objections are so filed by any coal  
30 operator or are made by the department of mines, the de-  
31 partment shall notify the well operator of the character of  
32 the objections and by whom made and fix a time and place  
33 not less than ten days from the end of said ten day period,  
34 at which such objections will be considered, of which time  
35 and place the well operator and all coal operators to whom  
36 a copy of said plat was mailed, whether objecting or not  
37 objecting to the proposed location, shall be given at least lve  
38 days written notice by the department, by registered mail and  
39 summoned to appear, bringing with them their maps and plans  
40 showing their mines and mine workings and prepared to  
41 approve or to except to such location or locations as the  
42 department may after hearing approve or itself fix in case  
43 no agreement is reached. At the time and place so fixed  
44 the well operator and the coal operators, or such of them as  
45 are present or represented, shall proceed to consider the ob-  
46 jections and to agree upon either the location as made or so  
47 moved as to satisfy all objections and meet the approval of  
48 the department, and any change in the original location so  
49 agreed upon and approved by the department shall be indi-  
50 cated on said plat on file with the department and the dis-  
51 tance and direction of the new location from the original

52 location shall be shown, and so altered, the plat shall be filed  
53 and become a permanent record. Whereupon the depart-  
54 ment shall forthwith issue to the well operator a drilling  
55 permit reciting the filing of said plat, that at a hearing duly  
56 held a location as shown thereon was agreed upon and ap-  
57 proved, and that the well operator is authorized to drill at  
58 said location.

59 "In case the well operator and the coal operator or such  
60 of the coal operators as are present or represented at such  
61 hearing are unable to agree upon a location or upon a loca-  
62 tion that meets the approval of the department of mines,"  
63 then the department shall fix a location on said tract of  
64 land as near to the original location as possible in a pillar  
65 of suitable size, through which the well can be drilled safely,  
66 taking into consideration the dangers from creep, squeeze,  
67 or other disturbance, due to the extraction of coal. Should  
68 no such pillar exist, however, the well may be located and  
69 drilled through open workings where, in the judgment of the  
70 department of mines, it is practicable and safe so to do,  
71 taking into consideration the dangers from creeps, squeezes  
72 or other disturbances. Such new location shall be indicated  
73 on the plat on file with the department as provided in the  
74 next preceding paragraph of this section, and the depart-  
75 ment shall forthwith tender to the well operator a permit  
76 to drill at such location, which permit the well operator may  
77 accept or refuse to accept, and if it accepts such drilling  
78 permit, the coal operator or operators having filed objections  
79 and appearing or being represented at such hearing, may  
80 except to such location and to the issue of such drilling  
81 permit; and the well operator accepting the same may re-  
82 quire the record of the hearing to show that it accepts such  
83 drilling permit at the location made by the department as a  
84 new or additional location and not in lieu of its original lo-  
85 cation, and that it reserves the right to appeal to the cir-  
86 cuit court of the county in which its original location lies  
87 for relief, and that it excepts to the refusal of the depart-  
88 ment to approve such original location substantially as made.  
89 The department of mines shall number and keep an index  
90 of and docket each plat and notice mailed to it as provided  
91 in section two of this act, entering in such docket the name

92 of the well operator, names of the coal operators notified  
93 and their addresses, the date of receipt of any such plat and  
94 of all objections filed, dates of hearings and all actions  
95 taken by the department, permits issued or refused, which  
96 docket shall be open to inspection by the public, and, to-  
97 gether with the papers filed, shall constitute the record of  
98 each such proceeding before the department.

Sec. 4. Any coal operator excepting to any location fixed  
2 or approved by the department of mines or to the issuance  
3 of any drilling permit, and any well operator excepting to  
4 the refusal of the department to grant a drilling permit at  
5 the location shown in the plat mailed to the department as  
6 provided in section two of this act, or such location so shift-  
7 ed as to be still substantially the same or the equivalent  
8 thereof, may at any time within ten days of the taking of  
9 such action by the department of mines appeal to the cir-  
10 cuit court of the county in which the location involved lies.  
11 The procedure shall be by petition and answer, duly verified,  
12 and naming the department as one of the respondents. There  
13 shall be attached to the petition or filed therewith a trans-  
14 cript of the record before the department and copies of all  
15 papers filed, and the petition shall briefly set forth the  
16 matter in controversy, the ruling of the department and the  
17 relief sought. The respondents shall be required to answer  
18 under oath within ten days after service of copies of the  
19 petition upon them and the procedure shall be expedited, as  
20 far as is reasonably possible, having regard to possible drain-  
21 age or loss of title by the well operator through its failure  
22 to complete a well within the period fixed by the terms of  
23 the lease under which it holds. The court may, by prelimin-  
24 ary order, upon proper proof of the necessity therefor and  
25 the giving of proper security, stay the drilling of any well  
26 until a final decision on the appeal, and after a final hear-  
27 ing, at which any competent and relevant evidence may be  
28 introduced, may set aside any action or order of the depart-  
29 ment and enter such final order and decree as in its judg-  
30 ment is just and right and will best carry out the provisions  
31 of this act. From such final orders and decrees of the cir-  
32 cuit court an appeal may be taken to the supreme court of  
33 appeals as now provided by law in proceedings in equity.

34 During vacation periods or when for any reason said cir-  
35 cuit court is not in session, said proceedings shall be before  
36 the judge of said court in vacation, or, in his absence, before  
37 the judge of an adjoining circuit, who may act until the re-  
38 turn of the regular judge to his circuit, whereupon all fur-  
39 ther proceedings shall be had before the regular judge or  
40 circuit court having initial jurisdiction therein, and all pro-  
41 ceedings in vacation shall be of like force and effect as if  
42 before the court in session.

Sec. 5. A well penetrating one or more workable coal beds  
2 shall be drilled to such depth, and of such size, as will per-  
3 mit the placing of casing and packers in the hole at such  
4 points and in such manner as will exclude all oil, gas or gas  
5 pressure from the coal bed, except such as may be found in  
6 the coal bed itself. Each string of casing run in the hole  
7 shall be provided with a steel casing shoe or collar firmly  
8 fixed on the bottom of the string of casing. Each string of  
9 casing run through a workable bed of coal shall be seated, at  
10 least thirty feet below said coal bed, in twenty feet of cement,  
11 mud, clay or such other nonporous material as will make an  
12 effective seal. And after any such string of casing has been  
13 so seated, drilling may proceed forthwith to any required  
14 depth.

Sec. 6. In the event that gas is found beneath a workable  
2 coal bed before the hole has been reduced from the size it  
3 had at the coal bed, a packer shall be placed below the coal  
4 bed, and above the gas horizon, and the gas by this means  
5 diverted to the inside of the adjacent string of casing through  
6 perforations made in said casing, and through it passed to the  
7 surface without contact with the coal bed. Should gas be  
8 found between two workable beds of coal, in a hole, of the  
9 same diameter from bed to bed, two packers shall be placed,  
10 with perforations in the casing between them, permitting the  
11 gas to pass to the surface inside the adjacent casing. In  
12 either of the cases here specified, the strings of casing shall  
13 extend from their seats to the top of the well.

Sec. 7. In the event that a well becomes productive of  
2 natural gas or petroleum, all coal-protecting strings of casing  
3 shall remain in place during the life of the well. During  
4 the life of the well the annular spaces between the various

5 strings of casing adjacent to workable beds of coal shall be  
6 kept open, and the top ends of all such strings shall be pro-  
7 vided with casing-heads, or such other suitable devices as will  
8 permit the free passage of gas and prevent filling of such  
9 annular spaces with dirt or debris.

Sec. 8. When a well is drilled through the horizon of a  
2 coal bed where the coal has been removed, the hole shall be  
3 drilled at least thirty feet below the coal bed, of a size suf-  
4 ficient to permit the placing of a liner which shall start not  
5 less than twenty feet beneath the horizon of the coal bed  
6 and extend not less than twenty feet above it. Within this  
7 liner, which may be welded to the casing to be used, shall  
8 be centrally placed the largest sized casing to be used in the  
9 well, and the space between the liner and casing shall be  
10 filled with cement as they are lowered into the hole. Cement  
11 shall be placed in the bottom of the hole to a depth of twenty  
12 feet to form a sealed seat for both liner and casing. Fol-  
13 lowing the setting of the liner, drilling shall proceed in the  
14 manner provided above. Should it be found necessary to  
15 drill through the horizon of two or more workable coal beds  
16 where the coal has been removed, the said liner shall be  
17 started not less than twenty feet below the lowest such hori-  
18 zon penetrated and shall extend to a point not less than  
19 twenty feet above the highest such horizon.

Sec. 9. Prior to the abandonment of any well, the well  
2 operator shall notify, by registered mail, the coal operator  
3 or operators to whom notices are required to be given by sec-  
4 tion two of this act, and the department of mines, of its  
5 intention to plug and abandon any such well (using such  
6 form of notice as the department may provide); giving the  
7 number of the well and its location and fixing the time at  
8 which the work of plugging and filling will be commenced,  
9 which time shall be not less than five days after the day on  
10 which such notice so mailed is received or in due course  
11 should be received by the department of mines, in order that  
12 a representative or representatives of the coal operator and  
13 of the department, or of both, may be present at the plug-  
14 ging and filling of the well. Whether such representatives  
15 appear or do not appear, the well operator may proceed at  
16 the time fixed to plug and fill the well in the manner here-  
17 inafter described. When said plugging and filling have been

18 completed, an affidavit, in triplicate, shall be made (on a  
19 form to be furnished by the department) by two experienced  
20 men who participated in the work, in which affidavit shall  
21 be set forth the time and manner in which the well was  
22 plugged and filled; one copy of this affidavit shall be re-  
23 tained by the well operator, another (or true copies of same)  
24 shall be mailed to the coal operator or operators, and the  
25 third to the department of mines.

Sec. 10. Upon the abandonment or cessation of the oper-  
2 ation of any well drilled for natural gas or petroleum, the  
3 well operator, at the time of such abandonment, or cessation,  
4 shall fill and plug the well in the following manner: (1)  
5 Where the well does not penetrate workable coal beds: it  
6 shall either be filled with mud, clay or other nonporous ma-  
7 terial from the bottom of the well to a point twenty feet  
8 above the top of its lowest oil, gas or water-bearing stratum:  
9 or, a permanent bridge shall be anchored thirty feet below its  
10 lowest oil, gas or water-bearing stratum, and from said bridge  
11 it shall be filled with mud, clay or other nonporous material  
12 to a point twenty feet above said stratum; at this point there  
13 shall be placed a plug of cement or other suitable material  
14 which will completely seal the hole. Between this sealing  
15 plug and a point twenty feet above the next higher oil, gas  
16 or water-bearing stratum, the hole shall either be filled, or  
17 bridged and filled, in the manner just described; and at said  
18 point there shall be placed another plug of cement, or other  
19 suitable material which will completely seal the hole. In like  
20 manner the hole shall be filled and plugged, or bridged,  
21 filled and plugged with reference to each of its oil, gas or  
22 water-bearing strata. However, whenever such strata are not  
23 widely separated and are free from water, they may be  
24 grouped and treated as a single sand, gas or petroleum hori-  
25 zon, and the aforesaid filling and plugging be performed as  
26 though there were but one horizon. After the plugging of  
27 all oil, gas or water-bearing strata, as aforesaid, a final plug  
28 shall be anchored approximately ten feet below the bottom  
29 of the largest casing in the well; from this point to the sur-  
30 face the well shall be filled with mud, clay or other nonporous  
31 material. In case any of the oil or gas bearing strata in a  
32 well shall have been shot, thereby creating cavities which  
33 cannot readily be filled in the manner above described, the

34 well operator shall follow either of the following methods:

35 (a) Should the stratum which has been shot be the lowest  
36 one in the well, there shall be placed, at the nearest suitable  
37 point, but not less than twenty feet above the stratum, a plug  
38 of cement or other suitable material which will completely seal  
39 the hole. In the event, however, that the shooting has been  
40 done above one or more oil or gas-bearing strata in the well,  
41 plugging in the manner specified shall be done at the nearest  
42 suitable points, but not less than twenty feet below and above  
43 the stratum shot. Or (b), when such cavity shall be in the  
44 lowest oil or gas-bearing stratum in the well, a liner shall be  
45 placed which shall extend from below the stratum to a suit-  
46 able point, but not less than twenty feet above the stratum  
47 in which shooting has been done. In the event, however, that  
48 the shooting has been done above one or more oil or gas-  
49 bearing strata in the well, the liner shall be so placed that  
50 it will extend not less than twenty feet above, nor less than  
51 twenty feet below, the stratum in which shooting has been  
52 done. Following the placing of the liner in the manner here  
53 specified, it shall be compactly filled with cement, mud, clay  
54 or other nonporous sealing material.

55 (2) Where the well has penetrated one or more workable  
56 coal beds; it shall be filled and securely plugged in the man-  
57 ner aforesaid, to a point forty feet below the lowest workable  
58 coal bed. If, in the judgment of the well operator, the coal  
59 operator and the department of mines, a permanent outlet to  
60 the surface is required, such outlet shall be provided in the  
61 following manner: A plug of cement, or other suitable ma-  
62 terial, shall be placed in the well at a suitable point, not less  
63 than thirty feet below the lowest workable coal bed. In this  
64 plug and passing through the center of it shall be securely  
65 fastened an open pipe not less than two inches in diameter,  
66 which shall extend to the surface. At or above the surface  
67 the pipe shall be provided with a device which will permit  
68 the free passage of gas, and prevent obstructing of the same.  
69 Following the setting of the cement plug and outlet pipe as  
70 aforesaid, the hole shall be filled with cement to a point  
71 twenty feet above the lowest workable coal bed. From this  
72 point the hole shall be filled with mud, clay or other non-  
73 porous material to a point thirty feet beneath the next over-  
74 lying workable coal bed, if such there be, and the next suc-

75 ceeding fifty feet of the hole filled with cement, and similarly,  
76 in case there are more overlying workable coal beds. If, in  
77 the judgment of the well operator, the coal operator and the  
78 department of mines, no outlet to the surface is considered  
79 necessary, the plugging, filling and cementing shall be as last  
80 above described.

Sec. 11. Before hereafter removing any coal or other ma-  
2 terial, or driving any entry or passageway within less than  
3 five hundred feet of any well, and also before hereafter ex-  
4 tending the workings in any coal mine beneath any tract of  
5 land on which wells are already drilled, or within five hun-  
6 dred feet of any well, or under any tract of land in visible  
7 possession by a well operator for the purpose of drilling for  
8 oil or gas, the coal operator shall forward, by registered  
9 mail, to or file a copy of the parts of its maps and plans  
10 which it is required by law to prepare and file and bring to  
11 date, from time to time, showing its mine workings and  
12 projected mine workings beneath such tract of land and  
13 within five hundred feet of the outer boundaries thereof,  
14 simultaneously, with the well operator and the department of  
15 mines, accompanying each of said copies with a notice (form  
16 of which shall be furnished on request by the department of  
17 mines), addressed to the well operator and to the department  
18 of mines at their respective addresses, informing them that  
19 said plans or maps and notice are being mailed by registered  
20 mail to them, or are being filed and served upon them, re-  
21 spectively, pursuant to the requirements of section eleven of  
22 this act, and following the filing of such parts of said plans  
23 or maps as aforesaid, the coal operator may proceed with its  
24 mining operations in the manner and as projected on said  
25 plans or maps, but shall not remove any coal or other mate-  
26 rial or cut any passageway nearer than two hundred feet of  
27 any completed well or wells that is being drilled, or for the  
28 purpose of drilling a derrick is being constructed, without the  
29 consent of the department of mines, and the coal operator  
30 shall, at least every six months, bring such plans or maps so  
31 filed with the department to date, or file new plans and maps  
32 complete to date.

33 Application may be made at any time to the department  
34 of mines by the coal operator for leave to mine or remove coal  
35 or conduct its mining operations within two hundred feet of

36 any well, by petition, duly verified, showing the location of  
37 the well, the workings adjacent to the well and any other ma-  
38 terial facts, and what further mining operations within two  
39 hundred feet of the well are contemplated, and praying the  
40 approval of the same by the department, and naming the well  
41 operator as a respondent. The coal operator shall file such  
42 petition with, or mail the same by registered mail to, the de-  
43 partment and shall at the same time serve upon or mail by  
44 registered mail a true copy to the well operator. The de-  
45 partment of mines shall, forthwith upon receipt of such copy,  
46 notify the well operator that it may answer the petition within  
47 five days, and that in default of an answer the department  
48 may approve the proposed operations as requested, if it be  
49 shown by the petitioner or otherwise to the satisfaction of the  
50 department that such operations are in accordance with law  
51 and with the provisions of this act. At the expiration of  
52 said five-day period, the department, whether an answer be  
53 filed or not filed, shall fix a time and place of hearing within  
54 ten days, of which it shall give the coal operator and the  
55 well operator five days' written notice by registered mail,  
56 and after a full hearing, at which the well operator and coal  
57 operator, as well as the department of mines, shall be per-  
58 mitted to offer any competent and relevant evidence, the de-  
59 partment shall grant the request of the coal operator or  
60 refuse to grant the same, or make such other decision with  
61 respect to said proposed further operations in the vicinity  
62 of any such well as in its judgment is just and reasonable  
63 under all the circumstances and in accordance with law and  
64 the provisions of this act. The department of mines shall  
65 docket and keep a record of all such proceedings substan-  
66 tially as required in the last paragraph of section three of  
67 this act, and from any such final decision or order of the  
68 department of mines, either the well operator or coal operator,  
69 or both, may, within ten days, appeal to the circuit court of  
70 the county in which the well about which approval of such  
71 further operations is involved is located. The procedure in  
72 the circuit court shall be substantially as provided in section  
73 four, the department being named as a respondent. From  
74 any final order or decree of the circuit court, an appeal may  
75 be taken to the supreme court of appeals as heretofore  
76 provided.

Sec. 12. The department shall exercise supervision over 2 the drilling, casing, plugging and filling of all wells and of 3 all mining operations in close proximity to any well and shall 4 have such access to the plans, maps and other records and to 5 the properties of the well operators and coal operators as may 6 be necessary or proper for this purpose, and, either as the 7 result of its own investigations or pursuant to charges made 8 by any well operator or coal operator, the department may 9 itself enter, or shall permit any aggrieved person to file be- 10 fore it, a formal complaint charging any well operator with 11 not drilling or casing, or not plugging or filling, any well in 12 accordance with the provisions of this act, or charging any 13 coal operator with conducting mining operations in prox- 14 imity to any well contrary to the provisions of this act, or to 15 the order of the department. True copies of any such com- 16 plaints shall be served upon or mailed by registered mail to 17 any person so charged, with notice of the time and place of 18 hearing, of which the operator or operators so charged shall 19 be given at least five days' notice. At the time and place 20 fixed for hearing, full opportunity shall be given any per- 21 son so charged or complaining to be heard and to offer such 22 evidence as desired, and after a full hearing, at which the 23 department may offer in evidence the results of such inves- 24 tigation as it may have made, the department shall make 25 its findings of fact and enter such order as in its judgment 26 is just and right and necessary to secure the proper admin- 27 istration of this act, and, if it deems necessary, restraining 28 the well operator from continuing to drill or case any well 29 or from further plugging or filling the same, except under 30 such conditions as the department may impose in order to 31 insure a strict compliance with the provisions of this act re- 32 lating to such matters, or restraining further mining opera- 33 tions in proximity to any well, except under such conditions 34 as the department may impose. From any such order an 35 appeal, naming the department as a respondent, may be taken 36 by the operator or operators so restrained, within ten days of 37 notice of entry of the same, to the circuit court of the county 38 in which the well involved is located, and the department or 39 complainant or complainants, or both, may, in case such order 40 is disobeyed, apply at any time to such circuit court for a 41 decree enforcing the same.

Sec. 13. The department shall prescribe rules of procedure 2 and for offering evidence in all matters brought before it and 3 shall prepare and, on request, furnish to applicants copies of 4 forms of notices and of other forms that the department may 5 require to be used and prescribe the manner of serving the 6 same. The department may also promulgate such other rules 7 and regulations as it may deem necessary or helpful in secur- 8 ing uniformity of procedure in the administration of this 9 act. Any matter in controversy before the department shall, 10 after hearing or hearings, of which all persons interested have 11 had due notice and at which they have been given an oppor- 12 tunity to appear and be heard and to offer evidence and to 13 make argument by counsel if desired, be decided by the de- 14 partment as may seem to it to be just and reasonable and 15 necessary or desirable for the proper enforcement of the pro- 16 visions of this act.

17 Whether or not it be so expressly stated, an appeal from 18 any final decisions or action by the department in administer- 19 ing the provisions of this act may be taken by any aggrieved 20 person within ten days of notice of such action or decision, 21 to the circuit court of the county in which the subject matter 22 of such decision or action is located, and in all cases of ap- 23 peals to the circuit court, that court shall certify its decisions 24 to the department of mines, and from all such final decisions 25 an appeal shall lie to the supreme court of appeals as now 26 provided by law in cases in equity. Any party feeling ag- 27 grieved by the final order of the circuit court, affecting him 28 or it, may present his or its petition in writing to the supreme 29 court of appeals, or to a judge thereof in vacation, within 30 twenty days after the entry of such order, praying for the 31 suspension or modification of such final order. The appli- 32 cant shall deliver a copy of such petition to the department 33 of mines and to all other parties of record, before presenting 34 the same to the court or judge. The court or judge shall 35 fix a time for the hearing on the application, but such hear- 36 ing shall not be held sooner than seven days, unless by agree- 37 ment of the parties, after its presentation, and notice of the 38 time and place of such hearing shall be forthwith given to 39 the department of mines and to all other parties of record. 40 If the court or judge, after such hearing, be of opinion 41 that the said final order should be suspended or modified, the

42 court or the judge may require bond, upon such conditions  
43 and in such penalty, and impose such terms and conditions  
44 upon the petitioner as are just and reasonable. For such  
45 hearing the entire record before the circuit court or a certi-  
46 fied copy thereof, shall be filed in the supreme court, and  
47 that court, upon such papers, shall promptly decide the mat-  
48 ter in controversy as may seem to it to be just and right, and  
49 may award costs in each case as to it may seem just and  
50 equitable.

Sec. 14. Any person or persons, co-partnership, partner-  
2 ship association or corporation wilfully violating the provi-  
3 sions of this act which prescribe the manner of drilling and  
4 casing or plugging and filling any well, or which fixes the  
5 distance from wells within which mining operations shall not  
6 be conducted without the approval of the department, or  
7 violating the terms of any order of the department allowing  
8 mining operations within a lesser distance of any well than  
9 that prescribed by the act, shall be guilty of a misdemeanor,  
10 and on conviction, be punished by a fine not exceeding two  
11 thousand dollars, or imprisonment in jail for not exceeding  
12 twelve months, or both, in the discretion of the court, and  
13 prosecutions under this section may be brought in the name  
14 of the state of West Virginia in the circuit court of the county  
15 in which the violation of such provisions of the act or terms  
16 of such order was committed, and at the instance and upon  
17 the relation of any citizens of the state.

Sec. 15. Sections one and two of chapter sixty-two-d of  
2 Barnes' West Virginia code, one thousand nine hundred and  
3 twenty-three, and all other acts and parts of acts inconsistent  
4 therewith, are hereby repealed.

## CHAPTER 87

(House Bill No. 350—By Mr. Rice)

AN ACT to amend and re-enact section nine of chapter four,  
of Barnes' nineteen hundred and twenty-three code of  
West Virginia, relating to vacancies in the office of county  
commissioner, clerk of county court, justices and constables.

[Passed March 9, 1929; in effect from passage. Became a law without the approval of the Governor.]

Sec. 9. Vacancies in certain county offices, how filled; when governor may | fill vacancy in office of county court commissioner.

*Be it enacted by the Legislature of West Virginia:*

That section nine of chapter four, of Barnes' nineteen hundred and twenty-three code of West Virginia be amended and re-enacted so as to read as follows:

Section 9. Vacancies in the office of the county court 2 commissioner and clerk of the county court, justices and 3 constables, shall be filled by the county court of the county 4 until the next general election; at which election every such 5 vacancy shall be filled by a vote of the people for the un- 6 expired term; of which election to fill such vacancy, notice 7 shall be given by order of the county court, and published 8 as prescribed in the next preceding section, except that such 9 notice in case of an election to fill a vacancy in the office of 10 justice of peace or constable, instead of being published in a 11 newspaper, may in the discretion of said court, be posted 12 at the front door of the court house of the county and 13 at each voting place in the district wherein such vacancy 14 occurs. *Provided, however,* in the case of a vacancy in the 15 office of the county court commissioner in any county in the 16 state if the remaining members of such county court fail, 17 refuse or neglect to fill such vacancy within sixty days from 18 the time it occurs then the governor of the state shall ap- 19 point some qualified citizen of said county belonging to the 20 same political party as the vacating member, to serve as

21 All acts or parts of acts inconsistent herewith are here- 22 by repealed.

## CHAPTER 88

(House Bill No. 378—By Mr. Vandervort, by request)

AN ACT to amend and re-enact section one, chapter one hundred and forty-four, of the acts of the legislature of West Virginia, for one thousand nine hundred and twenty-three, relating to the payment of county commissioners.

[Passed March 8, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

Sec.  
1. Compensation of county commis- sioners other than services in court.

*Be it enacted by the Legislature of West Virginia:*

That section one, of chapter one hundred and forty-four of the acts of the legislature of one thousand nine hundred and twenty-three be amended and re-enacted so as to read as follows:

Section 1. There shall be allowed and paid out of the county treasury, as other salaries are paid, beginning on the first day of January, one thousand nine hundred and twenty-one to each county commissioner in each county, which has now or may have at any decennial census of the United States at least the number of twenty-five thousand inhabitants or more for services performed for such county concerning roads, bridges and other county business by said commissioners (other than services in court) the following sums of money, to wit; for each county having one hundred thousand inhabitants or more the sum of two hundred and fifty dollars per month for each month of their term of service respectively, and for each county which has more than fifty thousand and less than one hundred thousand inhabitants at such census, the sum of two hundred dollars per month for each month of their term of service, respectively, except as otherwise provided by law for the county of Ohio; and for each county which has more than thirty thousand and less than fifty thousand inhabitants, the sum of one hundred dollars per month of their term of service respectively, and for each county that has more than twenty-five thousand inhabitants and less than thirty thousand inhabitants and not more than three commissioners, the sum of twenty-five dollars per month for each month of their term of service respectively. *Provided*, that in the county of Berkeley from and after June first, one thousand nine hundred and twenty-nine, the salaries of each of said county commissioners shall be one hundred dollars per month for each month of his term of service, respectively, for services other than services in court; *provided, further*, that in the county of Wayne the salaries of each of said county commissioners shall be seventy-five dollars per month of his term for services other than services in court;

32-a provided further, that in the counties of Jefferson, each of 32-b the five commissioners, and Preston, each of the eight com- 32-c missioners, shall receive thirty-five dollars per month, from 33 and after the first day of June, one thousand nine hundred 34 and twenty-three, for each month of his term of service 35 respectively, for services other than services in court.

36 *Provided, further,* that in the county of Monongalia from 37 and after June first, nineteen hundred and twenty-three the 38 salaries of each of said county commissioners shall be two 39 hundred dollars per month for each month of his term of 40 service, respectively, for services other than services in court.

## CHAPTER 89

(Senate Bill No. 33—By Mr. White of Mingo)

AN ACT making appropriations of public moneys out of the treasury, in accordance with the provisions of the amendment to the Constitution of the State of West Virginia, known as the "Budget Amendment."

[Passed March 16, 1929; in effect from passage]

### Sec.

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| 1-2. Fiscal years.   | 26. State sinking fund commission.                                  |
| 3. Appropriations payable out of general revenue.  | 27. Bureau of negro welfare and statistics.                         |
| 4. Salaries of elective and appointive state officers and of the judiciary.  | 28. General school fund.  |
| 5. Attorney general's office.  | 29. Relief of soldiers, sailors and marines; state service officer. |
| 6. Auditor's office.   | 30. Publication of delinquent lists.                                |
| 7. Salary of private secretary to the governor.  | 31. State aid for agricultural fairs and associations.              |
| 8. Pardon attorney's office.   | 32. Emergency and law and order appropriations.                     |
| 9. Civil contingent fund.  | 33. Rent of capitol annex and other property.                       |
| 10. Treasurer's office.  | 34. Supreme court of appeals.                                       |
| 11. Secretary of state's office.   | 35. Circuit courts.   |
| 12. Department of agriculture.   | 36. National cemeteries.  |
| 13. State law library.   | 37. State board of control.   |
| 14. Criminal charges.  | 38. Huntington state hospital.                                      |
| 15. State tax commissioner's office.   | 39. Spencer state hospital.   |
| 16. State commissioner of prohibition.   | 40. Weston state hospital.  |
| 17. Department of mines.   | 41. State colored hospital for the insane.                          |
| 18. Commissioner of banking.   | 42. McKendree hospital No. 2.                                       |
| 19. Bureau of labor and department of weights and measures.  | 43. State tuberculosis sanitarium.                                  |
| 20. Department of archives and history.  | 44. Rutherford state sanitarium.                                    |
| 21. State health department.   | 45. State colored tuberculosis sanitarium.                          |
| 22. Capitol building and grounds.  | 46. West Virginia industrial school for boys.                       |
| 23. Governor's mansion and grounds.  | 47. State industrial school for colored boys.                       |
| 24. Labor funds, capitol building.   | 48. West Virginia industrial home for girls.                        |
| 25. Militia; roster of West Virginia soldiers, etc.; Spanish-American and World Wars; appropriation for Eddie Russell and John L. Ellison. | 49. State industrial home for colored girls.                        |

50. West Virginia childrens' home.  
 51. West Virginia colored orphans' home.  
 52. State home for aged and infirm colored men and women.  
 53. West Virginia training school.  
 54. Printing, binding and stationery.  
 55. West Virginia geological survey.  
 56. State board of childrens' guardians.  
 57. Point Pleasant battle monument commission.  
 58. Berkeley Springs park.  
 59. Rumseyan society.  
 60. State board of pharmacy.  
 61. Florence Crittendon home (Wheeling).  
 62. Droop Mountain battle field.  
 63. Memorial tablet—Wetzel county.  
 64. Crippled children.  
 65. Hospital service for laborers and others.  
 66. Treatment of tuberculosis.  
 67. Treatment of inmates, West Virginia industrial home for girls, afflicted with infectious diseases.  
 68. West Virginia penitentiary; appropriation for John Gilliland.  
 69. Department of public safety.  
 70. Insurance on public buildings.  
 71. West Virginia university.  
 72. University extension work.  
 73. Agricultural experiment station.  
 74. Marshall college.  
 75. Potomac state school, Keyser.  
 76. New River state school, Montgomery.  
 77. Fairmont state normal school.  
 78. Concord state normal school.  
 79. Glenville state normal school.  
 80. Shepherd college state normal school.  
 81. West Liberty state normal school.  
 82. West Virginia school for the deaf and blind.  
 83. West Virginia school for colored deaf and blind.  
 84. West Virginia state college.  
 85. Bluefield colored institute.  
 86. Storer college.  
 87. Appropriations payable out of general revenue.  
 88. Legislative department, Senate.  
 89. Legislative department, House of Delegates.  
 90. Legislative printing and stationery.  
 91. Salaries of members of the legislature.  
 92. Miscellaneous appropriations.  
 93. Appropriations payable out of general school funds.  
 94. Department of education.  
 95. Appropriations payable out of state road fund.  
 96. State road commission.  
 97. Appropriations payable out of special license fees.  
 98. Public service commission.  
 99. Appropriations payable out of special fund.  
 100. Workmens' compensation.  
 101. Appropriation of special revenues or collections; appropriation of capitol fund revenue.
102. Appropriation for refunding overpayments on account of taxes, etc.; limitation on appropriations of amounts collected by particular institution, etc.
- PART ONE.
- 6-a. Auditor's office, fire marshal's and securities departments.  
 12-a. Department of agriculture, sire and nursery registration.  
 21-a. State health department.  
 25-a. Militia.  
 98-a. Public service commission.  
 K-1. Forest, game and fish commission.
- PART TWO.
- 37-a. State board of control.  
 38-a. Huntington state hospital.  
 39-a. Spencer state hospital.  
 40-a. Weston state hospital.  
 41-a. State hospital for colored insane.  
 42-a. McKendree hospital No. 2.  
 43-a. State tuberculosis sanitarium.  
 44-a. Rutherford state sanitarium.  
 45-a. State colored tuberculosis sanitarium.  
 46-a. West Virginia industrial school for boys.  
 47-a. State industrial school for colored boys.  
 48-a. West Virginia industrial home for girls.  
 49-a. State industrial home for colored girls.  
 50-a. West Virginia children's home.  
 51-a. West Virginia colored orphans' home.  
 52-a. State home for aged and infirm colored men and women.  
 54-a. Printing, binding and stationery.  
 55-a. West Virginia geological survey.  
 56-a. State board of childrens' guardians.  
 57-a. Point Pleasant battle monument commission.  
 58-a. Berkeley Springs park.  
 68-a. West Virginia penitentiary.  
 71-a. West Virginia university.  
 74-a. Marshall college.  
 75-a. Potomac state school.  
 76-a. New River state school.  
 77-a. Fairmont state normal school.  
 78-a. Concord state normal school.  
 79-a. Glenville state normal school.  
 80-a. Shepherd college state normal school.  
 81-a. West Liberty state normal school.  
 82-a. West Virginia schools for the deaf and blind.  
 83-a. State schools for colored deaf and blind.  
 84-a. West Virginia state college.  
 85-a. Bluefield colored institute.  
 K-2. Welch Hospital No. 1.  
 K-3. Fairmont hospital No. 3.  
 K-4. State board of dental examiners.  
 K-5. State board of examiners for nurses.  
 K-6. Veterinary examining board.  
 K-7. State board of embalmers.  
 K-8. State board of examiners in optometry.  
 K-9. Board of architects.  
 K-10. Board of engineers.  
 K-11. Board of bar examiners.  
 K-12. Board of osteopathy.

- K-13. Board of examiners of accountants.
103. How appropriation for state board or institutions drawn from treasury; when architect's estimate required; compensation of members of state boards or commissions.
104. Printing, etc., when paid out of general school fund; what printing not paid out of appropriation for public printing, etc.; what boards, etc., required to pay for their own printing; certification of cost by superintendent of public printing to auditor; publication of annual or bi-ennial report.
105. Limitation on amount paid out of treasury.
106. Certification of appropriation bill to auditor and treasurer by Clerk of the House and Clerk of the Senate.
107. Appropriation for monument to Union soldiers, etc., continued in effect.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That there be and are hereby appropriated out of the treasury for the fiscal year ending June thirty, one thousand nine hundred and thirty, and for the fiscal year ending June thirty, one thousand nine hundred and thirty-one and for the remainder of the fiscal year ending June thirty, one thousand nine hundred and twenty-nine, the following sums of money for the following-named purposes:

Sec. 2. The amounts appearing in the column headed "1930" are for the fiscal year ending June thirty, one thousand nine hundred and thirty and the amounts appearing in the column headed "1931" are for the fiscal year ending June thirty, one thousand nine hundred and thirty-one.

Sec. 3. All appropriations appearing under Sub-sections "A" and "B" are payable out of the general revenue of the State unless otherwise provided herein.

SUB-SECTION "A"

*Salaries*

	1930	1931
Sec. 4. Salary of the Governor..\$	10,000.00	\$ 10,000.00
2 Salary of the Auditor.....	7,000.00	7,000.00
3 Salary of the Treasurer.....	7,000.00	7,000.00
4 Salary of the Attorney General....	7,000.00	7,000.00
5 Salary of the Commissioner of		
6 Agriculture .....	7,000.00	7,000.00
7 Salary of Superintendent of Free		
8 Schools .....	7,000.00	7,000.00
9 Salary of the Secretary of State....	7,000.00	7,000.00
10 Salary of the State Law Librarian	3,000.00	3,000.00
11 Salary of Adjutant General.....	4,000.00	4,000.00
12 Salary of the State Tax Commis-		

13	tioner .....	6,000.00	6,000.00
14	Salaries of the members of the		
15	Public Service Commission.....	18,000.00	18,000.00
16	Salary of the Chief of the De-		
17	partment of Mines.....	7,000.00	7,000.00
18	Salary of the Commissioner of		
19	Banking .....	6,000.00	6,000.00
20	Salary of the Commissioner of		
21	Labor .....	4,000.00	4,000.00
22	Salary of the State Historian and		
23	Archivist .....	3,600.00	3,600.00
24	Salary of the State Commissioner		
25	of Health.....	4,800.00	4,800.00
26	Salary of the Janitor and Cus-		
27	todian .....	2,100.00	2,100.00
28	Salary of the Keeper of the Rolls..	300.00	300.00
29	Salaries of the three members of		
30	the Board of Control.....	18,000.00	18,000.00
31	Salary of the State Commissioner		
32	of Prohibition.....	5,000.00	5,000.00
33	Salary of the Director of the Bu-		
34	reau of Negro Welfare and Sta-		
35	tistics .....	3,600.00	3,600.00

## JUDICIARY

36	Salaries of the judges of the		
37	Supreme Court of Appeals.....	50,000.00	50,000.00
38	Salaries of the judges of the Cir-		
39	cuit Courts .....	130,500.00	130,500.00

## EXECUTIVE DEPARTMENT

*Attorney General's Office*

Sec. 5. Salaries of three assist-			
2	ant Attorneys General.....	14,400.00	14,400.00
3	Salary of printing clerk.....	3,000.00	3,000.00
4	Salary of reading clerk.....	1,800.00	1,800.00
5	Salaries of Chief clerk and stenog-		
6	raphers .....	5,700.00	5,700.00
7	Current general and traveling ex-		
8	penses .....	3,000.00	3,000.00

*Auditor's Office*

Sec. 6. Salary of Chief Clerk..	4,000.00	4,000.00
2 Salary of auditor of claims.....	4,000.00	4,000.00
3 Salary of corporation clerk.....	3,000.00	3,000.00
4 Salary of chief tax clerk.....	3,000.00	3,000.00
5 Salary of cashier.....	2,400.00	2,400.00
6 Salaries of other clerks, book-		
7 keepers, stenographers and as-		
8 sistants .....	28,750.00	28,750.00
9 Current general expenses.....	5,000.00	5,000.00
10 Salary of deputy insurance com-		
11 missioner .....	4,000.00	4,000.00
12 Salaries and current general ex-		
13 penses of insurance department,		
14 including salary of actuary.....	16,000.00	16,000.00
15 Salary of deputy securities com-		
16 missioner .....	4,000.00	4,000.00
17 For refunding moneys erroneously		
18 paid in to the treasury such		
19 sums are hereby appropriated		
20 as may be erroneously so paid,		
21 payable out of the same fund		
22 into which paid.		
23 For pay of State agents, such		
24 amounts are hereby appropri-		
25 ated as may be necessary to pay		
26 commissions of State agents.		
27 payable out of the fund collect-		
28 ed; <i>provided</i> , that in no case		
29 shall the amount so paid exceed		
30 ten per centum of the funds col-		
31 lected and paid into the treas-		
32 ury by any such agents.		
33 For refunding to counties, dis-		
34 tricts and municipal corpora-		
35 tions, county, district and mu-		
36 nicipal taxes paid into the treas-		
37 ury for the redemption of lands,		
38 such amount is hereby appro-		

39 driated as will be necessary  
 40 to refund to the counties, dis-  
 41 tricts and municipal corpora-  
 42 tions entitled thereto the taxes  
 43 so paid into the treasury.

44 For refunding county, district  
 45 and municipal taxes paid into  
 46 the treasury by railroads and  
 47 other companies, such sum is  
 48 hereby appropriated as will be  
 49 necessary to refund to each  
 50 county, district and municipal  
 51 corporation the amount of such  
 52 taxes as may be paid into the  
 53 treasury to the credit of such  
 54 county, district and municipal  
 55 corporation.

*Governor's Office*

2	Sec. 7. Salary of private secretary to the Governor.....	5,000.00	5,000.00
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*Pardon Attorney's Office*

2	Sec. 8. Salary of the Pardon Attorney .....	4,800.00	4,800.00
3	Salary of the stenographer.....	900.00	900.00
4	Current general expenses.....	600.00	600.00

*Civil Contingent Fund*

2	Sec. 9. For civil contingent fund, to be expended upon the order of the Governor, no part of which, however, is to be used for clerk hire in any of the State offices or institutions other than the Governor's office.....	25,000.00	25,000.00
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*Treasurer's Office*

2	Sec. 10. Salary of assistant treasurer .....	4,000.00	4,000.00
3	Salary of chief accountant.....	3,600.00	3,600.00
4	Salary of bookkeeper.....	3,000.00	3,000.00
5	Salary of chief clerk, bond de-		

6	partment .....	3,000.00	3,000.00
7	Salary of assistant clerk, bond de-		
8	partment .....	3,000.00	3,000.00
9	Salaries of other clerks, bookkeep-		
10	ers, stenographers and assistants	13,820.00	13,820.00
11	Current general and traveling ex-		
12	penses .....	2,750.00	2,750.00
13	To pay premiums on official bonds	2,400.00	2,400.00
14	Replacement of bookkeeping ma-		
15	chines and typewriters.....	1,000.00	1,000.00

*Secretary of State's Office*

Sec. 11. Expenses of secretary			
2	of state's office, including com-		
3	pensation of clerks, stenogra-		
4	phers and other expenses.....	18,000.00	18,000.00
5	Salary clerk board of public works	3,000.00	3,000.00

*Department of Agriculture*

Sec. 12. Salaries of Clerks and			
2	stenographers .....	9,000.00	9,000.00
3	Current general and traveling ex-		
4	penses .....	7,000.00	7,000.00
5	For carrying out the provisions		
6	of law relating to diseased ani-		
7	mals and the eradication of		
8	bovine tuberculosis .....	47,500.00	47,500.00
9	For carrying out the provisions of		
10	law relating to control of plant		
11	diseases and control of corn		
12	borer .....	18,000.00	18,000.00
13	For carrying out the provisions of		
14	law relating to pure seeds, com-		
15	mmercial fertilizer and commer-		
16	cial feeding stuffs.....	15,000.00	15,000.00
17	Bureau of Markets and publica-		
18	tion of bulletins.....	20,000.00	20,000.00
19	For advertising the resources and		
20	natural advantages of West Vir-		
21	ginia .....	7,000.00	7,000.00
22	No part to be used for the pay-		
23	ment of salaries and traveling		

24 expenses.

25 To be expended under the direc-  
26 tions of the Commissioner of  
27 Agriculture, with the approval  
28 of the Governor.

*State Law Library*

Sec. 13. Current general ex-		
2 penses and clerk hire.....	2,400.00	2,400.00
3 Purchase and binding books for		
4 State law library (Charleston)..	4,000.00	4,000.00

*Criminal Charges*

Sec. 14. To pay criminal		
2 charges, including transportation		
3 of prisoners and extradition of		
4 criminals and fugitives.....	125,000.00	125,000.00

*State Tax Commissioner's Office*

GENERAL OFFICE

Sec. 15. Salary of law assistant		
2 to commissioner.....	5,000.00	5,000.00
3 Salary of chief assistant.....	3,000.00	3,000.00
4 Salaries of other clerks, stenogra-		
5 phers and assistants.....	20,000.00	20,000.00
6 To pay all expenses in connection		
7 with securing a proper assess-		
8 ment of property including com-		
9 pilation of returns and appor-		
10 tionment of valuations of public		
11 utilities .....	12,500.00	12,500.00
12 Current general and traveling ex-		
13 penses .....	6,000.00	6,000.00
14 All forfeitures and license taxes		
15 collected by the State Tax Com-		
16 missioner, or his agents, under		
17 and by virtue of the authority		
18 granted by law, shall be paid		
19 into the treasury as provided in		
20 Chapter 8, Acts of 1925. All		
21 necessary salaries, expenses, com-		
22 missions and attorneys' fees		
23 authorized by law for the col-		

24 lection of same shall be paid by  
 25 the Tax Commissioner through  
 26 the State treasury out of the  
 27 gross collections. Any part of  
 28 such forfeitures that may from  
 29 time to time be due the State  
 30 or any county, district or mu-  
 31 nicipality shall be distributed  
 32 through the State treasury by  
 33 the Tax Commissioner upon the  
 34 basis provided by law by secur-  
 35 ing State checks for said pur-  
 36 poses and such amounts are  
 37 hereby appropriated. A suffi-  
 38 cient amount of the aforesaid  
 39 moneys collected and paid into  
 40 the State treasury is hereby ap-  
 41 propriated to pay the salaries,  
 42 expenses, commissions or fees  
 43 authorized by law, and it shall  
 44 be the duty of the Auditor and  
 45 Treasurer to keep a separate  
 46 account of the receipts and dis-  
 47 bursements of such funds.

## GROSS SALES DEPARTMENT

48 Salary of assistant, Gross Sales		
49 Tax .....	4,800.00	4,800.00
50 Salaries of auditors, bookkeepers		
51 clerks and stenographers.....	16,500.00	16,500.00
52 Salaries of collectors and field		
53 agents .....	15,700.00	15,700.00
54 Current general and traveling ex-		
55 penses .....	10,000.00	10,000.00

## ACCOUNTING DEPARTMENT

56 Salary of chief accountant.....	6,000.00	6,000.00
57 Expenses of uniform system of		
58 accounting, including compensa-		
59 tion of assistants, stenographers		
60 and other expenses.....	10,000.00	10,000.00
61 Expenses of auditing state de-		

62	partments and compiling finan-		
63	cial reports.....	13,500.00	13,500.00
	<i>State Commissioner of Prohibition</i>		
	Sec. 16. Salary of secretary....	4,000.00	4,000.00
2	Salary of permit and file clerk.....	2,100.00	2,100.00
3	Salary of bookkeeper.....	1,800.00	1,800.00
4	Salary of two stenographers and		
5	clerk .....	3,300.00	3,300.00
6	Salaries of field officers and other		
7	field assistants, traveling and		
8	other expenses of Commissioner,		
9	field officers and assistants.....	45,000.00	45,000.00
10	<i>Provided</i> , that in the discretion of		
11	the Commissioner a sum not to		
12	exceed \$5,000.00 of the fore-		
13	going appropriation may be		
14	used for educational purposes		
15	<i>Provided, however</i> , that no part		
16	of this appropriation shall be		
17	used to pay the salaries or ex-		
18	penses of prohibition officers,		
19	deputy prohibition officers, spe-		
20	cial deputies, agents or others,		
21	who have been dismissed as fed-		
22	eral prohibition officers for viola-		
23	tions of rules and regulations,		
24	as county prohibition officers,		
25	deputy sheriffs and state or city		
26	policemen for neglect of duty		
27	or abuse of power, or who have		
28	been convicted of crime.		
29	Current general expenses.....	3,000.00	3,000.00
30	To pay premiums to the State		
31	Compensation Fund for the in-		
32	surance of employees.....	1,500.00	1,500.00
	<i>Department of Mines</i>		
	Sec. 17. Salary of chief clerk..	3,600.00	3,600.00
2	Salaries of twenty-eight inspec-		
3	tors .....	95,200.00	95,200.00
4	Salaries of clerks and stenogra-		
5	phers .....	6,740.00	6,740.00

6	Traveling expenses of chief and		
7	inspectors .....	32,000.00	32,000.00
8	Salary of inspector of sand and		
9	limestone mines.....	2,400.00	2,400.00
10	Traveling expenses of inspector of		
11	sand and limestone mines.....	1,200.00	1,200.00
12	Salary of chief director of mine		
12-a	safety and rescue work.....	2,900.00	2,900.00
12-b	Salaries of four assistant direc-		
12-c	tors of mine safety and rescue		
13	work .....	9,600.00	9,600.00
14	Traveling expenses of directors		
15	of mine safety and rescue work	7,500.00	7,500.00
16	Current general expenses main-		
17	taining rescue stations and		
18	trucks and for Safety Day Dem-		
19	onstrations and Instruction.....	18,300.00	18,300.00
20	Salaries twenty rescue teams.....	7,200.00	7,200.00
21	Current general expenses.....	2,800.00	2,800.00
22	Salary of clerk and stenographer		
23	to carry out the provisions of		
24	House Bill No. 305.....	1,600.00	1,600.00

*Commissioner of Banking*

Sec. 18. Salaries of examiners,			
2	secretary, stenographers and		
3	assistants .....	37,900.00	37,900.00
4	Traveling expenses of commis-		
5	sioner, examiners and assistants	22,500.00	22,500.00
6	Current general expenses.....	3,500.00	3,500.00

*Bureau of Labor and Department of Weights and Measures*

Sec. 19. Salaries of six factory			
2	inspectors .....	14,400.00	14,400.00
3	Salary of chief clerk.....	3,000.00	3,000.00
4	Salaries of assistants and steno-		
5	graphers, Bureau of Labor and		
6	Department of Weights and		
7	Measures .....	4,200.00	4,200.00
8	Current general expenses of the		
9	Department of Weights and		
10	Measures .....	1,500.00	1,500.00

11	Current general expenses of the		
12	Bureau of Labor.....	1,500.00	1,500.00
13	Traveling expenses of the Com-		
14	missioner of Labor and factory		
15	inspectors .....	9,000.00	9,000.00
16	Salaries of two inspectors of		
17	weights and measures.....	4,200.00	4,200.00
18	Traveling expenses of two inspec-		
19	tors of weights and measures....	3,000.00	3,000.00

*Department of Archives and History*

Sec. 20. Salary of the Li-

2	brarian .....	2,100.00	2,100.00
3	Salary of the stenographer.....	1,500.00	1,500.00
4	Salary of the cataloguer.....	1,800.00	1,800.00
5	Salary of the messenger and jani-		
6	tor .....	1,320.00	1,320.00
7	Current general expenses.....	1,500.00	1,500.00
8	Purchase of books, periodicals,		
9	magazines and newspapers.....	1,500.00	1,500.00

*State Health Department*

Sec. 21. Salaries and current

2	general expenses .....	120,000.00	120,000.00
3	For the purchase of typhoid,		
4	smallpox and other vaccine ser-		
5	ums for general distribution		
6	upon the order of the public		
7	health commissioner .....	10,000.00	10,000.00

*Capitol Building and Grounds*

Sec. 22. For water, light, heat,

2	current expenses, other than re-		
3	pairs and improvements.....	30,000.00	30,000.00
4	Repairs and improvements.....	5,000.00	5,000.00

*Governor's Mansion and Grounds*

Sec. 23. Current general ex-

2	penses .....	7,000.00	7,000.00
3	Repairs, improvements and fur-		
4	nishings .....	7,000.00	7,000.00

*Labor Funds, Capitol Building*

Sec. 24. Salaries of engineers,

2	watchmen, janitors, charwomen,		
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3	elevator and telephone oper-		
4	ators .....	40,000.00	40,000.00

*Militia*

2	Sec. 25. To carry into effect		
3	the provisions of chapter		
4	eighteen, Barnes' Code as		
5	amended, relating to the militia		
6	Armory rentals, repairs and		
7	equipment, light, heat, water,		
8	caretaker and janitor service..	60,000.00	60,000.00
9	All other expenditures for Militia	60,000.00	60,000.00
10	Repairs and improvement of the		
11	state property known as Camp		
12	Dawson .....	15,000.00	15,000.00
13	Repairs and improvement to arm-		
14	ory at Huntington.....	2,500.00	2,500.00
15	All appropriations appearing in		
16	section twenty-five are to be paid		
17	on the requisition of the Adju-		
18	tant General, subject to the ap-		
19	proval of the Governor.		
20	To pay for the preparation and		
21	printing of the roster of West		
22	Virginia soldiers, sailors and		
23	marines, as provided by House		
24	Bill No. 118.....	10,000.00	
25	The Adjutant General is hereby		
26	authorized to pay out of the		
27	foregoing appropriations, not		
28	to exceed \$1,280.00, to Eddie		
29	Russell, employee of the West		
30	Virginia National Guard, who		
31	was injured while employed at		
32	the State Camp at Pt. Pleasant.		
33	Not to exceed \$179.00 to John L.		
34	Ellis, member of West Virginia		
35	National Guard, who was in-		
36	jured while on duty in the serv-		
37	ice of the state, for hospital and		
	medical expense. See section		

38 forty-seven, chapter eighteen, of  
39 the code.

*State Sinking Fund Commission*

Sec. 26. Expenses of State  
2 Sinking Fund Commission, in-  
3 cluding compensation of assist-  
4 ants, stenographers and all  
5 other expenses ..... 14,280.00 14,280.00

*Bureau of Negro Welfare and Statistics*

Sec. 27. To pay for clerk hire.. 2,100.00 2,100.00  
2 Current general and traveling ex-  
3 penses ..... 2,000.00 2,000.00

*General School Fund*

Sec. 28. To supplement the  
2 general school fund to meet the  
3 requirements of section 7, chap-  
4 ter 126, Acts of the Legisla-  
5 ture of 1921..... 1,000,000.00 1,250,000.00  
6 The foregoing appropriation shall  
7 be distributed by the State Au-  
8 ditor, upon the order of the  
9 State Board of Public Works,  
10 designating the amount to which  
11 each district is entitled under  
12 existing law.  
13 Said order shall designate the  
14 district and fix the amount al-  
15 lowed to said district and said  
16 Board of Public Works shall  
17 file a certified copy thereof with  
18 the State Auditor within the  
19 time provided in said section  
20 referred to herein. This appro-  
21 priation shall not be available  
22 except upon the order of the  
23 state board of public works and  
24 payments to districts shall be  
25 made under rules and regula-  
26 tions of said board, and no pay-  
27 ment shall be made to any dis-

28 trict unless the said board shall  
 29 first find and certify that the  
 30 property of such district has  
 31 been assessed, for the current  
 32 year, at its true and actual  
 33 value as provided by law.

*World War—Soldiers, Sailors and Marines*

Sec. 29. For the relief of sick,  
 2 disabled or indigent soldiers,  
 3 sailors and marines residing in  
 4 West Virginia, who served in  
 5 the World War, including cost  
 6 of administration, to be ex-  
 7 pended under such rules and  
 8 regulations as may be pre-  
 9 scribed by the Board of Public  
 10 Works ..... \$42,000.00      42,000.00  
 11 *Provided, however, this appropri-*  
 12 *ation shall be available for the*  
 13 *relief of those who served in*  
 14 *the Spanish-American War who*  
 15 *are not receiving pensions from*  
 16 *the Federal Government.*  
 17 Salary of service officer..... 3,000.00      3,000.00  
 18 Current expenses, including sten-  
 19 ographer and travel..... 5,000.00      5,000.00

*Publication of Delinquent Lists*

Sec. 30. To pay cost of pub-  
 2 lishing list of delinquent cor-  
 3 porations as provided by sec-  
 4 tions 134 and 136, Chapter 32  
 5 of the Code, payable on requis-  
 6 ition of Governor or Auditor..... 800.00      800.00

*State Aid for Agricultural Fairs or Associations*

Sec. 31. To carry out the pro-  
 2 visions of Chapter 122, Acts  
 3 1921, providing for State aid  
 4 for the encouragement of agri-  
 5 cultural fairs to be paid on ap-  
 6 proval of Governor and Com-

7	missioner of Agriculture.....	20,000.00	20,000.00
8	<i>Provided</i> , that five thousand dol-		
9	lars for each year shall be dis-		
10	tributed to such fairs as may be		
11	designated by the department		
12	of agriculture as Four-H re-		
13	gional fairs. <i>Provided</i> , how-		
14	ever that of the remaining fif-		
15	teen thousand dollars not more		
16	than two thousand five hundred		
17	dollars each year shall be paid		
18	to any one agricultural fair or		
19	association.		

*Emergency and Law and Order Appropriations*

2	Sec. 32. To meet emergencies		
3	that arise during the time that		
4	the Legislature is not in ses-		
5	sion and for the preservation		
6	of law and order to be dis-		
7	bursed on the order of the Gov-		
	ernor .....	50,000.00	50,000.00
8	<i>Provided</i> , that upon the necessity		
9	of the use of the fund in case		
10	the appropriation for the first		
11	year becomes exhausted, the		
12	Governor shall have the right to		
13	draw upon the appropriation		
14	herein made for the second year,		
15	and in case the appropriation		
16	for the first year be not ex-		
17	pended, it shall automatically		
18	become available during the		
19	second year.		
20	<i>Provided, however</i> , that no part		
21	of this appropriation shall be		
22	used to supplement appropri-		
23	ations for State Departments		
24	other than State Institutions and		
24-a	Department of Public Safety.		
25	All expenditures other than for		
26	the preservation of law and or-		

27 der shall be made on the order  
28 of the Governor with the ap-  
29 proval of the Board of Public  
30 Works. The provisions of section  
30-a thirty-three, chapter seventy,  
30-b acts of one thousand nine hun-  
30-c dred and twenty-seven, shall not  
30-d be construed so as to prohibit  
30-e supplementing the appropria-  
30-f tions for the department of pub-  
30-g lic safety.

31 It shall be unlawful for any State  
32 board, commission, officer or  
33 employee to incur any liability  
34 during any fiscal year, which  
35 cannot be paid out of the then  
36 current year appropriation or  
37 out of funds received from the  
38 emergency appropriation.

39 It shall be unlawful for any State  
40 board, commission, officer or  
41 employee to authorize or to pay  
42 any account or bill incurred out  
43 of the appropriation for the fol-  
44 lowing year, unless a sufficient  
45 amount of the appropriation for  
46 the fiscal year, during which the  
47 liability was incurred, was can-  
48 celled by expiration or a suffi-  
49 cient amount of the appropria-  
50 tion remained unexpended at  
51 the end of the year.

52 Any member of a State board or  
53 commission, or any officer or  
54 employee violating the provi-  
55 sions of this section shall be per-  
56 sonally liable for any debt un-  
57 lawfully incurred or for any  
58 payment unlawfully made.

*Rent of Capitol Annex and Other Property*  
Sec. 33. To pay rent of Capitol

2	annex and other property.....	7,000.00	7,000.00
<b>JUDICIARY DEPARTMENT</b>			
<i>Supreme Court of Appeals</i>			
	Sec. 34. Salary of the clerk....	6,000.00	6,000.00
2	Salary of deputy clerk.....	3,600.00	3,600.00
3	Salary of assistant clerk.....	1,800.00	1,800.00
4	Salaries of five law clerks.....	18,000.00	18,000.00
5	Per diem of the crier.....	950.00	950.00
6	Mileage of the Supreme Court		
7	judges .....	650.00	650.00
8	Current general expenses of the		
9	Supreme Court .....	2,500.00	2,500.00
10	Printing and binding Supreme		
11	Court reports .....	7,000.00	7,000.00
12	Reprinting, binding, proofreading		
13	one thousand volumes each Su-		
14	preme Court Reports Nos. 49		
15	and 54 .....	2,750.00	2,750.00
16	For expenses of conducting ex-		
17	amination of applicants to prac-		
18	tice law, including traveling ex-		
19	penses and per diem of the		
20	members of the examining		
21	board, to be paid on the order		
22	of the president of the examin-		
23	ing board .....	1,200.00	1,200.00
24	Compensation of stenographers for		
25	the judges of the Supreme Court		
26	of Appeals .....	3,600.00	3,600.00
<i>Circuit Courts</i>			
	Sec. 35. Compensation of		
2	special judges of the circuit		
3	courts .....	5,000.00	5,000.00
4	Mileage of the judges of the cir-		
5	cuit courts .....	2,500.00	2,500.00
6	Allowance for office rent, steno-		
7	graphic services, lighting and		
8	heating office as provided by		
9	Chapter 86, Acts one thousand		
10	nine hundred and twenty-one....	10,000.00	10,000.00

*National Cemetery*

2	Sec. 36. To carry out the provisions of Chapter 57, Acts of one thousand nine hundred and twenty-seven, relating to National Cemetery, Grafton.....	1,000.00	1,000.00
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## SUB-SECTION "B"

- 1 All appropriations appearing under "Sub-Section 'B'" are  
 2 payable only on the requisition and approval of the State  
 3 Board of Control.

## EXECUTIVE DEPARTMENT

*State Board of Control*

2	Sec. 37. Salary of secretary.....	3,600.00	3,600.00
3	Salary of buyer.....	2,400.00	2,400.00
4	Salary of director of building construction .....	3,000.00	3,000.00
5	Salary of chief clerk, printing department .....	3,600.00	3,600.00
6	Salaries of bookkeepers, stenographers and other assistants....	39,300.00	39,300.00
7	Current general expenses.....	7,500.00	7,500.00
8	Traveling expenses.....	2,500.00	2,500.00

*Huntington State Hospital*

2	Sec. 38. Current general expenses .....	60,000.00	60,000.00
3	Repairs and improvements.....	20,000.00	20,000.00

*Spencer State Hospital*

2	Sec. 39. Current general expenses .....	110,000.00	110,000.00
3	Repairs and improvements.....	12,500.00	12,500.00

*Weston State Hospital*

2	Sec. 40. Current general expenses .....	245,000.00	245,000.00
3	Repairs and improvements, including sprinkler system.....	42,500.00	42,500.00
4	The State Board of Control is		
5	hereby authorized to contract		
6	for the installation of a sprink-		

8	ler system upon the passage of		
9	this Act.		
10	Repairs to sewage disposal plant....	2,000.00	2,000.00
11	Buildings .....	100,000.00	100,000.00

*State Colored Hospital for the Insane*

Sec. 41. Current general ex-			
2	penses .....	60,000.00	60,000.00
3	Repairs and improvements.....	20,000.00	20,000.00
4	Buildings and land.....	75,000.00	

*McKendree Hospital No. 2*

Sec. 42. Current general ex-			
2	penses .....	22,000.00	22,000.00
3	Repairs and improvements.....	4,500.00	4,500.00
4	This appropriation shall be avail-		
5	able for the biennial period, but		
6	if the Governor and the State		
7	Board of Control should at any		
8	time desire to convert McKen-		
9	dree Hospital No. 2 for other		
10	state purposes, authority is here-		
11	by given for same and this ap-		
12	propriation may be available for		
13	such purpose.		

*State Tuberculosis Sanitarium*

Sec. 43. Current general ex-			
2	penses .....	200,000.00	175,000.00
3	Repairs and improvements, in-		
4	cluding laundry equipment.....	50,000.00	50,000.00
5	Buildings and land.....	50,000.00	

*Rutherford State Sanitarium*

Sec. 44. Current general ex-			
2	penses .....	70,000.00	70,000.00
3	Repairs and improvements.....	25,000.00	25,000.00

*State Colored Tuberculosis Sanitarium*

Sec. 45. Current general ex-			
2	penses .....	25,000.00	25,000.00
3	Repairs and improvements.....	15,000.00	15,000.00

*West Virginia Industrial School for Boys*

Sec. 46. Current general ex-			
2	penses .....	100,000.00	100,000.00
3	Repairs and improvements.....	30,000.00	30,000.00
4	To pay George A. Barnard, em-		
5	ployee, permanently, totally dis-		
6	abled, by inmate, to be paid in		
7	monthly installments .....	1,200.00	1,200.00
8	To pay Walter Crawford, former		
9	inmate, who was disabled while		
10	employed, to be paid in monthly		
11	installments .....	600.00	600.00

*State Industrial School for Colored Boys*

Sec. 47. Current general ex-			
2	penses .....	25,000.00	25,000.00
3	Repairs and improvements.....	5,000.00	5,000.00
4	To pay R. L. French on account		
5	of the death of his son, Hugh		
6	French, an inmate, employed....	365.00	365.00

*West Virginia Industrial Home for Girls*

Sec. 48. Current general ex-			
2	penses .....	50,000.00	50,000.00
3	Repairs and improvements.....	7,500.00	7,500.00

*State Industrial Home for Colored Girls*

Sec. 49. Current general ex-			
2	penses .....	15,000.00	15,000.00
3	Repairs and improvements.....	5,000.00	5,000.00

*West Virginia Children's Home*

Sec. 50. Current general ex-			
2	penses .....	18,000.00	18,000.00
3	Repairs and improvements.....	5,000.00	5,000.00

*West Virginia Colored Orphans' Home*

Sec. 51. Current general ex-			
2	penses .....	11,000.00	11,000.00
3	Repairs and improvements.....	1,500.00	1,500.00

*State Home for Aged and Infirm Colored Men and Women*

Sec. 52. Current general ex-			
2	penses .....	12,000.00	12,000.00

*West Virginia Training School*

Sec. 53. Buildings and land.....			
		75,000.00	75,000.00

*Printing, Binding and Stationery*

2	Sec. 54. For printing, binding, stationery and storage.....	75,000.00	75,000.00
3	The state board of control is here-		
4	by authorized to determine the		
5	necessity and advisability of all		
6	expenditures for printing, bind-		
7	ing, stationery and storage, ex-		
8	cept where the same is specifi-		
9	cally required by law.		

*West Virginia Geological Survey*

	Sec. 55. Salaries.....	22,000.00	22,000.00
2	Current general expenses.....	20,000.00	20,000.00
3	For investigation of mineral waste		
4	products .....	5,000.00	5,000.00

*State Board of Children's Guardians*

2	Sec. 56. Salaries, traveling and current general expenses.....	45,000.00	45,000.00
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*Point Pleasant Battle Monument Commission*

2	Sec. 57. Maintenance, Tu-En-		
	die Wei Park.....	1,500.00	1,500.00
3	Repairs and improvements.....	1,500.00	1,500.00

*Berkeley Springs Park*

2	Sec. 58. Repairs and improve-		
	ments .....	10,000.00	10,000.00

*Rumseyan Society*

2	Sec. 59. For maintenance of grounds at Shepherdstown.....	250.00	250.00
3	For improvement of roads or		
4	driveway at Shepherdstown.....	250.00	250.00

*State Board of Pharmacy*

2	Sec. 60. Salaries and current general expenses .....	2,500.00	2,500.00
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*Florence Crittendon Home (Wheeling)*

2	Sec. 61. For the care and treat-		
3	ment of wayward girls and their children, residents of West Vir-		

4	ginia, who may become public		
5	charges, admitted under regu-		
6	lations prescribed by the State		
7	Board of Control.....	5,000.00	5,000.00

*Droop Mountain Battlefield*

2	Sec. 62. To carry out the		
3	provisions of House Joint Reso-		
4	lution No. 8, 1927 Legislature,		
5	relating to the marking of the		
6	battle field at Droop Mountain	1,000.00	1,000.00
7	The foregoing appropriation to		
8	be expended by the State Board		
9	of Control with the approval of		
	the Board of Public Works.		

*Memorial Tablet*

2	Sec. 63. To pay for and install		
3	bronze tablets, Wetzel County		
3	Memorial Building .....	1,250.00	1,250.00

*Crippled Children*

2	Sec. 64. For the treatment, care		
3	and hospitalization of deformed		
4	and physically defective chil-		
5	dren, salaries of one or more		
6	orthopedic surgeons and neces-		
7	sary assistants, transportation,		
8	traveling expenses, equipment,		
9	contingent and other expenses		
10	incident to carrying out the pro-		
11	visions of Chapter 18, the Acts		
12	of 1925, creating and providing		
13	for the Crippled Children's		
13	Council .....	40,000.00	40,000.00
14	<i>Provided</i> , that in case the appro-		
15	priation for the first year be		
16	not expended, it shall be avail-		
17	able during the second year.		
18	(This appropriation to be ex-		
19	pended on order of the State		
20	Board of Control, under rules		

21 and regulations prescribed by  
 22 said board, and the Crippled  
 23 Children's Council.)

*Hospital Service*

Sec. 65. For the treatment of  
 2 laborers and others who may  
 3 become public charges, to be  
 4 paid upon approval of the State  
 5 Board of Control in manner  
 6 hereafter set forth..... 40,000.00 40,000.00  
 7 October 1, 1929, and every three  
 8 months thereafter any hospital,  
 9 other than state hospitals, within  
 10 the state and doing charity work,  
 11 may file with the State Board of  
 12 Control itemized bills for all  
 13 charity cases treated during the  
 14 preceding three months, said  
 15 bills to be made out in the form  
 16 prescribed by and at the rates  
 17 fixed by said board. Sixty days  
 18 shall be allowed for filing said  
 19 bills after which time the Board  
 20 of Control shall audit the same  
 21 and pay all proper claims. If,  
 22 however, the aggregate of all  
 23 claims filed exceeds one-fourth  
 24 of the amount appropriated for  
 25 the year then said board shall  
 26 apportion the said one-fourth ap-  
 27 propriated so that each claim  
 28 will receive its pro rata share.  
 29 (This appropriation to be ex-  
 30 pended on order of the State  
 31 Board of Control, under rules  
 32 and regulations prescribed by  
 33 said board.)

*Treatment of Tuberculosis.*

Sec. 66. For the care and treat-  
 2 ment of persons afflicted with

3	tuberculosis, residents of West		
4	Virginia, who may become		
5	public charges admitted to a		
6	sanitarium under regulations		
7	prescribed by the State Board		
8	of Control .....	20,000.00	20,000.00

*To Carry Out Section 175, Chapter 144, Acts 1921.*

	Sec. 67. Treatment of girls		
2	committed to the West Virginia		
3	Industrial Home for Girls who		
4	are afflicted with infectious		
5	diseases .....	7,500.00	7,500.00

*West Virginia Penitentiary.*

	Sec. 68. Repairs and Improve-		
2	ments .....	25,000.00	25,000.00
3	To pay John Gilliland, injured		
4	while on duty as a guard at the		
5	West Virginia Penitentiary.....	300.00	300.00

*Department of Public Safety*

	Sec. 69. To pay the expenses of		
2	the Department of Public		
3	Safety, including the compen-		
4	sation of the officers, employees		
5	and members, and all other ex-		
6	penses thereof, according to		
7	the provisions of Chapter 12,		
8	Acts of the extra session of the		
9	Legislature of 1919 and amend-		
10	ments thereto .....	432,500.00	432,500.00
11	Any member of the department		
12	of public safety who has been		
13	or may hereafter be injured		
14	while in the line of duty in the		
15	services of the state shall be		
16	entitled to receive such com-		
17	penensation for such period of		
18	time as determined and fixed		
19	by the State Board of Control;		
20	<i>provided, however, such com-</i>		

21 pension shall not exceed the  
 22 rate of compensation received  
 23 at the time of injury, payable  
 24 out of the foregoing appropria-  
 25 tion.

26 Not to exceed \$3,600.00 per year  
 27 of the foregoing appropriation  
 28 shall be used for salary of a  
 29 deputy superintendent of state  
 30 police.

*Insurance on Public Buildings*

Sec. 70. To pay for insurance

2	on public buildings.....	125,000.00	70,000.00
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*West Virginia University*

Sec. 71. Salaries of officers,

2	teachers and employees.....	683,600.00	703,600.00
3	To pay expenses in connection		
4	with preparatory work for the		
5	establishment of a graduate		
6	school .....	12,000.00	12,000.00
7	Current general expenses.....	225,000.00	225,000.00
8	Library books.....	25,000.00	25,000.00
9	Repairs and improvements.....	125,000.00	125,000.00
10	Buildings and land, men's field		
11	house .....	85,000.00	
12	Building and land—Land.....	31,250.00	31,250.00
13	Buildings .....	150,000.00	150,000.00

*University Extension Work*

Sec. 72. Mining and Indus-

2	trial Extension .....	40,000.00	40,000.00
3	Agricultural, Horticultural and		
4	Home Economics Extension.....	85,000.00	85,000.00
5	To pay all expenses in co-operation		
6	with Federal Government in		
7	carrying out the provisions of		
8	Capper-Katchem Federal Act		
9-13	for Boys and Girls' work.....	10,616.08	10,616.08
14	4-H Camp for boys and girls club		
15	work at Jackson's Mills.....	25,000.00	25,000.00
16	Repairs and Improvements, Jack-		

17	son's Mills .....	7,500.00	7,500.00
18	Purchase of land, Jackson's		
19-32	Mills .....	20,000.00	20,000.00
33	Community Packing Plant, Cur-		
34	rent expenses, Inwood.....	8,000.00	8,000.00
35	Machinery and equipment, Com-		
36	munity Packing Plant at In-		
37	wood .....	5,000.00	5,000.00
38	Purchase of building and land,		
39	Community Egg Packing Plant	12,500.00	12,500.00
40	No part of any of the appropria-		
41	tions for the West Virginia Uni-		
42	versity shall be used for the pur-		
43	chase of land, erection of build-		
44	ings for, maintenance or opera-		
45	tion of a University rural high		
46	school created under chapter		
47	seventy-one, acts one thousand		
48	nine hundred and twenty-seven.		

*Agricultural Experiment Station*

Sec. 73. Salaries of officers—

2	technical staff and labor.....	40,000.00	40,000.00
3	Current general expense.....	25,000.00	25,000.00
4	Repairs and improvements.....	20,000.00	20,000.00
5	Live stock .....	5,000.00	5,000.00
6	Current general expenses, Rey-		
7	mann Memorial Farms.....	1,500.00	1,500.00
8	Repairs and improvements, Rey-		
9	mann Memorial Farms.....	2,000.00	2,000.00

*Marshall College*

Sec. 74. Salaries of officers,

2	teachers and employees.....	235,000.00	235,000.00
3	Current general expenses.....	50,000.00	50,000.00
4	Repairs and improvements.....	20,000.00	20,000.00
5	Installing sprinkler system.....	10,000.00	10,000.00
6	The State Board of Control is		
7	hereby authorized to contract		
8	for the installation of a sprink-		
9	ler system upon the passage of		
10	this act.		
11	Buildings .....	100,000.00	100,000.00

*Potomac State School Keyser*

Sec. 75. Salaries of officers,		
2	teachers and employees.....	62,000.00      62,000.00
3	Current general expenses.....	20,000.00      20,000.00
4	Repairs and improvements.....	12,000.00      12,000.00

*New River State School, Montgomery*

Sec. 76. Salaries of officers,		
2	teachers and employees.....	75,000.00      75,000.00
3	Current general expenses.....	20,000.00      20,000.00
4	Repairs and improvements.....	10,000.00      10,000.00
5-19	Buildings.....	50,000.00      50,000.00
20	For removal of landslide and pur-	
21	chase of land necessary for pro-	
22	tection of the property.....	25,000.00      25,000.00

*Fairmont State Normal School*

Sec. 77. Salaries of officers,		
2	teachers and employees.....	125,000.00      130,000.00
3	Current general expenses.....	22,000.00      22,000.00
4	Repairs and improvements.....	20,000.00      20,000.00
5	Buildings .....	90,000.00      90,000.00

*Concord State Normal School*

Sec. 78. Salaries of officers,		
2	teachers and employees.....	76,000.00      76,000.00
3	Current general expenses.....	20,000.00      20,000.00
4	Repairs and improvements.....	15,000.00      15,000.00
5	Girls' Physical Education build-	
6	ing .....	20,000.00      20,000.00

*Glennville State Normal School*

Sec. 79. Salaries of officers,		
2	teachers and employees.....	70,000.00      70,000.00
3	Current general expenses.....	15,000.00      15,000.00
4	Repairs and improvements.....	15,000.00      15,000.00
5	Buildings .....	25,000.00      25,000.00

*Shepherd College State Normal School*

Sec. 80. Salaries of officers,		
2	teachers and employees.....	57,000.00      60,000.00
3	Current general expenses.....	17,500.00      17,500.00
4	Repairs and improvements.....	10,000.00      10,000.00

*West Liberty State Normal School*

Sec. 81. Salaries of officers,			
2	teachers and employees.....	50,000.00	50,000.00
3	Current general expenses.....	12,500.00	12,500.00
4	Repairs and improvements.....	12,500.00	12,500.00
5	Buildings .....	50,000.00	50,000.00

*West Virginia School for the Deaf and Blind*

Sec. 82. Salaries of officers,			
2	teachers and employees.....	93,000.00	93,000.00
3	Current general expenses.....	70,000.00	70,000.00
4	Repairs and improvements.....	30,000.00	30,000.00

*West Virginia School for Colored Deaf and Blind*

Sec. 83. Salaries of officers,			
2	teachers and employees.....	12,500.00	12,500.00
3	Current general expenses.....	17,000.00	17,000.00
4	Repairs and improvements.....	10,000.00	10,000.00
5	Buildings and land.....	15,000.00	15,000.00

*West Virginia State College*

Sec. 84. Salaries of officers,			
2	teachers and employees.....	140,000.00	140,000.00
3	Current general expenses.....	52,500.00	52,500.00
4	Repairs and improvements.....	35,000.00	35,000.00
5	Vocational Training Building.....	60,000.00	60,000.00
6	To complete grading of campus, to		
7	erect barn and farm outhouses		
8	removed because of grading.....	7,500.00	7,500.00

*Bluefield Colored Institute*

Sec. 85. Salaries of officers,			
2	teachers and employees.....	55,000.00	57,000.00
3	Current general expenses.....	15,000.00	15,000.00
4	Repairs and improvements.....	13,500.00	13,500.00
5	Buildings .....	60,000.00	60,000.00

*Storer College*

Sec. 86. Salaries of officers,			
2	teachers and employees, and re-		
3	pairs and improvements.....	17,500.00	17,500.00

## SUB-SECTION "C"

Sec. 87. All appropriations appearing under Sub-Section			
2	"C" are payable out of the General Revenue of the State		
3	Fund for the fiscal year ending June thirty, one thousand		

4 nine hundred and twenty-nine. Except appropriations in  
 5 Section 91 which are payable for the years one thousand  
 6 nine hundred and thirty and one thousand nine hundred and  
 7 thirty-one.

LEGISLATIVE DEPARTMENT  
 SENATE

2	Sec. 88. Mileage of the members of the Senate	
3	for the regular session of one thousand nine hun-	
3	dred and twenty-nine.....	\$ 1,046.10
4	President of the Senate, two dollars per day as pre-	
5	siding officer for sixty-seven days.....	134.00
	<i>Compensation and Per Diem of Other Elective Officers</i>	
6	Compensation of the Clerk of the Senate, including	
7	fifteen dollars advanced for postage and telegrams	1,690.00
8	Sergeant-at-Arms of the Senate.....	804.00
9	Doorkeeper of the Senate.....	670.00
10	D. C. Bennett, Sergeant-at-Arms, session one thou-	
11	sand nine hundred and twenty-seven, assembling	
12	furniture and preparing Senate chamber for the	
13	opening of the session.....	150.00
	<i>Presidential Appointees</i>	
14	One supervisor of stenographers for sixty days.....	600.00
15	Twelve floor stenographers for sixty days.....	5,760.00
16	One floor stenographer for forty days and one for	
17	thirty days.....	560.00
18	Seven floor stenographers for seven days' extended	
19	session .....	392.00
20	One mailing and one assistant mailing and banking	
21	page .....	1,016.00
22	One clerk to the committee on roads.....	600.00
23	One stenographer to the committee on roads.....	480.00
24	Twenty committee clerks.....	9,600.00
24-a	One committee clerk, seven days' extended session	56.00
25	Eight document room clerks.....	3,840.00
26	Two document room clerks for seven days' ex-	
27	tended session .....	112.00
28	One chief journal page.....	536.00
29	Three journal pages.....	1,080.00
30	Seven mailing room clerks.....	2,520.00
31	One day and one night watchman.....	938.00

32	One private secretary to the President.....	1,005.00
33	One stenographer to the President.....	670.00
34	One messenger to the President.....	360.00
35	One clerk to the committee on finance.....	804.00
36	One assistant clerk to the committee on finance.....	670.00
37	One stenographer to the committee on finance.....	670.00
38	One messenger to the committee on finance.....	335.00
39	One clerk to the committee on the judiciary.....	804.00
40	One assistant clerk to the committee on the judi-	
41	ciary .....	600.00
42	One stenographer to the committee on the judiciary	670.00
43	One assistant stenographer to the committee on the	
44	judiciary .....	536.00
45	One messenger to the committee on the judiciary....	335.00
46	One chaplain to the Senate.....	402.00
47	One assistant sergeant at arms.....	600.00
48	One assistant doorkeeper.....	600.00
49	Six floor pages.....	2,160.00
50	One ladies' maid.....	335.00
51	Two toilet room attendants.....	670.00
52	Four cloak room attendants.....	1,200.00
53	Two cloak room attendants for seven days' ex-	
54	tended session .....	70.00
55	To pay Richard Batten (Cedar Grove), thirty days	
56	as committee clerk.....	240.00

*Clerk's Appointees*

57	One reading clerk.....	804.00
58	Two abstract clerks.....	1,524.00
59	Supervisor and assistant supervisor of printing.....	1,874.00
60	One roll clerk.....	670.00
61	Two bill editors.....	1,340.00
62	One clerk on enrolled bills.....	670.00
63	One warrant clerk and bookkeeper.....	804.00
64	Two office stenographers.....	1,340.00
65	Superintendent and assistant superintendent docu-	
66	ment room .....	1,474.00
67	Secretary to clerk.....	804.00
68	Two bill record clerks.....	1,608.00
69	One file clerk.....	670.00
70	One proof reader on enrolled bills.....	670.00
71	Joint supervisor of printing (Senate's part).....	502.50

72	One bill receipt clerk.....	600.00
73	Eleven proof readers and copy holders.....	7,020.00
74	Nine general assistant clerks.....	5,680.00
75	One messenger .....	335.00
76	One page.....	335.00
77	To pay J. M. Lynn, custodian, city hall, for serv-	
78	ices of extra janitors, watchmen, elevator opera-	
79	tors and charwomen employed during the legis-	
80	lative session of one thousand nine hundred and	
81	twenty-nine, at the rate of \$5.00 per day as per	
82	itemized bill presented. This includes the serv-	
83	ices for restoration of offices and Senate chamber	
84	to normal condition.....	4,422.00
85	To pay M. S. Hodges for editing, compiling and	
86	publishing the "West Virginia Legislative Hand	
87	Book and Manual and Official Register" under	
88	the same provisions as to distribution as were	
89	adopted in the session of one thousand nine hun-	
90	dred and twenty-one, including all expenses in-	
91	curred in the employment of contributors, the	
92	preparation of matter, clerical hire, stenographic	
93	services and proof reading, and for shipping	
94	charges in connection with the distribution of	
95	the book:	
96	For the year ending June thirty, one thousand nine	
97	hundred and thirty.....	7,000.00
98	For the year ending June thirty, one thousand nine	
99	hundred and thirty-one.....	7,000.00
100	Said amounts to be paid monthly out of the state	
101	treasury upon proper requisitions drawn upon	
102	the auditor.	
103	The appropriation contained in the appropriation	
104	bill of the session of one thousand nine hundred	
105	and twenty-seven for the publication of said	
106	Manual for the year one thousand nine hundred	
107	and twenty-nine to the late John T. Harris is	
108	hereby directed to be paid to M. S. Hodges, who	
109	shall perform the work of publishing said Manual	
110	for the year one thousand nine hundred twenty-	
111	nine, as provided in said appropriation bill of	
112	one thousand nine hundred and twenty-seven.	

113	After the distribution provided for in the Acts of-	
114	one thousand nine hundred and twenty-one above	
115	referred to, or by further resolution of the Legis-	
116	lature, the remainder of the edition shall be sold	
117	by the superintendent of public printing to per-	
118	sons desiring to purchase the same at the price	
119	of two dollars and fifty cents per volume.	
120	The editing, compiling and publication of said	
121	Manual shall be made by M. S. Hodges, Clerk of	
122	the Senate, under the superintendence and at	
123	the direction of a committee consisting of the	
124	President of the Senate, the chairman of the Sen-	
125	ate finance committee and the chairman of the	
126	Senate judiciary committee, who shall direct	
127	what matter shall be used and in what years said	
128	Manual shall be published.	
129	Contingent fund of the Senate.....	30,000.00
	<i>Miscellaneous Appropriations</i>	
130	To pay the following named persons and firms for	
131	supplies furnished and services rendered, one	
132	thousand nine hundred and twenty-nine session,	
133	Senate:	
134	Bond-Rider-Jackson Company, towels, soap, etc....	52.00
135	Tom S. Burdette, making roll for committee as-	
136	signments .....	5.00
137	Bertie Cantley .....	4.00
138	Charleston Engraving Company, copper half-tone	
139	Abe Lincoln .....	7.27
140	Charleston Cut Flower Co., flowers.....	52.10
141	Charleston School Supply Co., plate holders and	
142	plates .....	48.75
143	C. & P. Tel. Co. of W. Va., telephone service.....	339.37
144	Clutter Typewriter Exchange, typewriter rental,	
145	ribbons, etc. ....	32.00
146	Diamond Ice & Coal Co., ice.....	53.82
147	Farmers' Hardware Company, glasses, ladder, oil....	2.48
148	Federal Publishing Co., Barnes' Codes and supple-	
149	ments .....	384.50
150	Marie F. Ford, typewriter rental.....	30.00
151	Gunther & Totten, making and engraving silver	
152	plate .....	6.50

153	Arthur E. Harmon, engraving resolutions.....	20.00
154	E. L. Hilbert, scales.....	5.00
155	Telford Hutchinson, transfer and hauling service....	502.50
156	Jordan Taxi, for taxi fare.....	2.50
157	H. R. Judy, keys, locks and repairs.....	31.35
158	Jack's Toggery, chairs.....	63.00
159	S. S. Kresge Co., coat hangers and glassware.....	2.05
160	Laird Office Equipment Co., supplies and rent on	
161	chairs .....	49.70
162	H. B. Lee, 2 copies of Criminal Trials in the Vir-	
163	ginias .....	20.00
164	Mathews Printing & Litho. Co., Barnes' supple-	
165	ments .....	85.00
166	Mathews Storage Company, drayage.....	89.50
167	Mitchell Bros., drayage.....	1.50
168	Mock Orange Water Co., drinking water.....	126.90
169	S. Spencer Moore Co., file cases, supplies, etc.....	1,318.62
170	National Towel Supply Company, towel service.....	27.50
171-174	Studio Swan, frame and photo—John T. Harris	25.00
175	Smith & Brooks, soap, towels and supplies.....	70.95
176	Talley's, table, supplies, etc.....	92.82
177	W. F. Thompson, installing electric lights.....	47.50
178	Underwood Typewriter Co., typewriter rental, re-	
179	pairs, etc. ....	184.25
180	W. Va. School Journal, use of Addressograph	
181	machine .....	50.00
182	Western Union, telegrams.....	1.08
183	Philip Hersher, Treas. Public Library Commission,	
184	rent for office in Capitol Annex building.....	280.00
185	H. B. Hyscl, janitor services, office Capitol Annex	
186	building .....	80.00
187	To pay C. B. Stewart, superintendent document	
188	room, services for thirty-two days, recess period	
189	session of one thousand nine hundred and twenty-	
190	seven .....	256.00
191	To pay John Javins, assistant superintendent docu-	
192	ment room, services for thirty-two days, recess	
193	period session of one thousand nine hundred and	
194	twenty-seven .....	256.00
195	Ruth C. Copenhaver, stenographic services to the	
196	joint committee to investigate the penitentiary....	75.00

197 The Clerk of the Senate is authorized to draw his  
 198 warrant upon the Auditor, payable out of the  
 199 contingent fund of the Senate, for any bills for  
 200 supplies and services that may have been in-  
 201 curred by the Senate and not included in the  
 202 appropriation bill, and for bills for supplies and  
 203 services incurred after adjournment, including  
 204 office rent, if it becomes necessary to rent offices  
 205 to close up the work of the session.

### HOUSE OF DELEGATES

Sec. 89. Mileage of the members of the house of

2	delegates .....	\$ 6,344.40
3	Per diem of the speaker of the house at \$2.00.....	134.00
4	Contingent fund of the house of delegates.....	40,000.00
	<i>Compensation of Other Elective Officers</i>	
5	Compensation of the clerk of the house for services	
6	during the regular and extended sessions.....	1,675.00
7	Compensation of the sergeant-at-arms for services	
8	during the regular and extended sessions.....	804.00
9	Compensation of the doorkeeper of the house for	
10	services during the regular and extended sessions	670.00

### *Clerk's Appointees*

11	One supervisor printing.....	804.00
12	One reading clerk.....	804.00
13	Two journal clerks.....	1,390.00
14	Two senate and house bill record clerks.....	1,270.00
15	One bill receipt clerk.....	600.00
16	Two abstract clerks.....	1,474.00
17	One secretary to clerk.....	804.00
18	One file clerk.....	670.00
19	Three bill editors.....	2,208.00
20	One roll clerk.....	600.00
21	Two desk clerks.....	1,270.00
22	One clerk on enrolled bills.....	600.00
23	One journal editor.....	804.00
24	Two bill comparing clerks.....	1,200.00
25	Six printing clerks.....	4,008.00
26	Six copyholders .....	3,810.00
27	One clerk on engrossed bills.....	804.00
28	One calendar clerk.....	600.00

29	Four stenographers .....	1,976.00
30	One messenger .....	335.00
31	One page .....	300.00
32	One joint supervisor of printing on part of house.....	502.50

*Speaker's Appointees*

33	Private secretary to speaker.....	1,005.00
34	Private stenographer to speaker.....	670.00
35	Three assistant sergeants-at-arms.....	1,496.00
36	Clerk to sergeant-at-arms.....	536.00
37	Clerk and assistant clerk to committee on taxation	
38	and finance .....	1,284.00
39	Stenographer and assistant stenographer to com-	
40	mittee on taxation and finance.....	726.00
41	Clerk and assistant clerk to committee on judiciary..	1,474.00
42	Stenographer to committee on judiciary.....	670.00
43	Clerk and stenographer to committee on roads.....	1,080.00
44	Clerk and stenographer to committee on education...	1,150.00
45	Supervisor and twenty-three committee clerks.....	11,744.00
46	Stenographer to committee on mines and mining.....	480.00
47	Supervisor and fourteen floor stenographers.....	8,062.00
48	Seven typists .....	3,360.00
49	Ten pages .....	3,768.00
50	Chief and four assistant journal clerks.....	2,568.00
51	Supervisor and six assistant mailing clerks.....	3,640.00
52	Mailing and banking page.....	480.00
53	Messenger to the speaker.....	402.00
54	Messenger to minority.....	480.00
55	Messenger to executive department.....	600.00
56	Page to committee on taxation and finance.....	300.00
57	Four cloak room attendants.....	1,485.00
58	Four toilet room attendants.....	1,200.00
59	One chief custodian and eight janitors.....	3,015.00
60	One maid .....	469.00
61	Three day and night watchmen.....	1,122.00
62	One chaplain .....	469.00
63	Three assistant doorkeepers.....	1,496.00

*Miscellaneous Appropriations*

64	Bernard Williams, journal page at the first and sec-	
65	ond units of the capitol and departments of state	
66	government in the city of Charleston, other than	

67	the legislature, sixty-five days at \$8.00 per day....	520.00
68	Woodrum Home Outfitting Company.....	1.75
69	Kanawha Valley Lumber Company.....	12.04
70	Laird Office Equipment Company.....	39.00
71	J. W. Dudley Sons Company, flowers (Sen. Reitz)....	30.00
72	Thomas O. Laird, rental on adding machine.....	20.00
73	George A. Goshorn, Jr., administering oath to mem-	
74	bers .....	46.50
75	Superior Stamp Company.....	5.00
76	R. H. Kyle & Company, chairs.....	30.00
77	Virginian Electric Company, merchandise.....	40.49
78	Peoples Store, merchandise.....	9.58
79	Farmers Hardware .....	.50
80	Empire Dry Cleaning Company, dry cleaning.....	4.00
81	B. S. Ray, desk.....	60.00
82	Howard B. Lee, three copies criminal trial.....	30.00
83	Dana, Barnes Company, merchandise.....	5.00
84	C. H. Gebhart, plumbing repairs.....	5.00
85	Federal Publishing Company, thirty-five Barnes'	
86	Codes .....	525.00
87	Mathews Storage Company, hauling, material and	
88	labor not included in storage contract.....	190.00
89	Royal Confectionery, merchandise.....	44.60
90	Telford Hutchison to transporting journals and bills	
91	with truck to post office, as per resolution of Mr.	
92	Keatley .....	502.50
93	S. Spencer Moore Company, supplies.....	677.05
94	W. H. Burford, hauling paper and trash sixty days	90.00
95	Callahan's Garage .....	3.50
96	Charleston School Supply Company, B plates.....	52.00
97	Welhans, florist, flowers Delegate Beard's father.....	20.00
98	Kanawha County Court, part expense, water, light	
99	and fuel .....	975.00
100	J. T. Pauley, supplies paid for personally.....	15.60
101-104	Schwabe & May, merchandise.....	10.00
105	Whittaker Paper Company, Cincinnati, Ohio.....	75.60
106	Jordan Taxi Company.....	92.25
107	Diamond Ice & Coal Company.....	18.90
108	Standard Oil Company, merchandise.....	53.60
109	Talleys, merchandise .....	214.23
110	Mock Orange Mineral Water Company.....	87.00

111	Superior Laundry Company.....	.67
112	Benjamin Auto Electric Company.....	6.75
113	Tribune Printing Company, printing and supplies	208.65
114	Kanawha Novelty Works, keys, repairing and	
115	changing locks .....	28.50
116	Royal Typewriter Company, rental.....	317.50
117	Smith & Brooks, supplies.....	256.66
118	Underwood Typewriter Company, rental.....	75.50
119	Ault Auto Company, supplies.....	11.50
120	Chesapeake & Potomac Telephone Company.....	237.38
121	T. K. Massie, rental on typewriter.....	7.50
122	Theodore Ayres, for Janitor services rendered.....	150.00
123	Mathews Storage Warehouses, hauling and storage	
124	of furniture as per contract dated March 7, 1929	1,400.00
125	The auditor, upon the certification of the Clerk of	
126	the House of Delegates, or the sergeant-at-arms	
127	of the house is hereby authorized to pay out of	
128	the contingent fund of the house of delegates any	
129	bills for supplies and services that may have been	
130	incurred by the house of delegates, and not in-	
131	cluded in the appropriation bill, and bills for	
132	supplies and services incurred after adjourn-	
133	ment, including office rent, if it becomes necessary	
134	to rent offices to close up the work of the session.	

*Legislative Printing and Stationery*

Sec. 90.	To pay the cost of	
2	legislative printing and station-	
3	ery, the appropriation to be	
4	available for the year ending	
5	June thirty, one thousand nine	
6	hundred and twenty-nine. If	
7	the work is not completed prior	
8	to June thirty, one thousand	
9	nine hundred and twenty-nine,	
10	then the appropriation shall	
11	continue in effect until eom-	
12	pleted .....	70,000.00

*Salaries of Members of the Legislature*

1930

1931

Sec. 91. Salaries of members

2	of the Senate.....	15,000.00	15,000.00
3	Salaries of members of the House		
4	of Delegates.....	47,000.00	47,000.00

## SUB-SECTION "D"

Sec. 92. All appropriations appearing under Sub-Section

2	"D" are payable out of the general revenue of the State		
3	Fund for the fiscal year ending June thirty, one thousand		
4	nine hundred and twenty-nine.		

## MISCELLANEOUS APPROPRIATIONS

	To pay for river bank in front		
2	of present Capitol building site,		
3	including costs, said property		
4	being acquired by condemnation		
5	proceedings .....	13,809.60	
6	To purchase and install freight		
7	elevator lift in first unit of Cap-		
8	itol building.....	6,000.00	
9	For the removal of records of the		
10	secretary of state's office from		
11	the old vaults to the new capi-		
12	tol building, including labor of		
13	re-erecting and refiling said rec-		
14	ords, binding books and filing		
15	equipment, said appropriation		
16	to continue in effect until the		
17	purposes for which it is appro-		
18	priated have been carried out,		
19	and to be paid on the order of		
20	the secretary of state.....	2,500.00	
21	To reimburse C. H. Henderson,		
22	Sheriff of Ohio County, for cer-		
23	tain witness claims in felony		
24	cases, subject to approval of		
24-a	State Auditor.....	565.00	
25	To pay for additional printing,		
26	binding and stationery.....	15,000.00	
27	To pay Scholl Printing Co. of		
28	Parkersburg balance for print-		
29	ing furnished to the state when		
30	acting as public printer.....	3,951.00	

31 To pay five claims filed with the	
32 commissioner of agriculture for	
33 services and expenses incurred	
34 prior to March, one thousand	
35 nine hundred and twenty-five,	
36 payment to be made on the or-	
37 der of the commissioner of agri-	
38 culture .....	1,079.20
39 To pay J. Z. Terrell, former war-	
40 den of the state penitentiary for	
41 money advanced to state road	
42 camps .....	1,138.76
43 To pay amount due W. D. Brown	
44 on account of expenses incur-	
45 red during the administration	
46 of former commissioner, W. G.	
47 Brown .....	295.37
48 To pay O. E. Summers, deputy	
49 prohibition commissioner, hos-	
50 pital expenses and medical serv-	
51 ice rendered to him resulting	
52 from injuries received in line of	
53 duty on June fifth, one thousand	
54 nine hundred and twenty-eight..	526.00
55 To pay amounts due field agents	
56 and assistants for the fiscal year	
57 ending June thirtieth, one thou-	
58 sand nine hundred and twenty-	
59 eight — Prohibition Depart-	
60 -78 ment .....	230.24
79 To pay premiums to Workmen's	
80 Compensation for balance of fis-	
81 cal year one thousand nine hun-	
82 dred and twenty-nine—Prohi-	
83 bition Department.....	500.00
84 To pay cost of special investiga-	
85 tions and emergencies during re-	
86 mainder fiscal year one thousand	
87 nine hundred and twenty-nine—	
88 Prohibition Department .....	1,200.00
89 To pay stenographers and assist-	

90	ants remainder of fiscal year one	
91	thousand nine hundred and	
92	twenty-nine — Prohibition De-	
93	partment .....	500.00
94	To pay additional salary of the	
95	commissioner of banking for the	
96	remainder of the year ending	
97	June thirtieth, one thousand	
98	nine hundred and twenty-nine....	83.33
99	To pay additional salary of the	
100	chief of the department of	
101	mines for the remainder of the	
102	year ending June thirtieth, one	
103	thousand nine hundred and	
104	twenty-nine .....	83.33
105	To pay additional salary of the	
106	six elective state officers other	
107	than the governor for the re-	
108	mainder of the year ending	
109	June thirtieth, one thousand	
110	nine hundred and twenty-nine..	3,887.22
111	To pay salaries of bookkeepers,	
112	stenographers and assistants of	
113	the state board of control for	
114	the remainder of the year end-	
115	ing June thirtieth, one thou-	
116	sand nine hundred and twenty-	
117	nine .....	1,500.00

## SUB-SECTION "E"

2 Sec. 93. All appropriations appearing under Sub-Section  
 2 "E" are payable out of the general school fund of the State.

*Department of Education*

2	Sec. 94. Salary of assistant su-		
2	perintendent .....	4,000.00	4,000.00
3	Salary of chief clerk.....	3,600.00	3,600.00
4	Salary of state aid clerk, part time	1,500.00	1,500.00
5	Salary of statistical clerk.....	3,000.00	3,000.00
6	Salary of printing and supply		
7	clerk .....	2,700.00	2,700.00
8	Salary of high school super-		
9	visor .....	4,000.00	4,000.00

10 Salary of rural school super- 10-a visor .....	4,000.00	4,000.00
10-b The appropriation covering sal- 10-c ary and expenses of rural 10-d school supervisor is made 10-e necessary account withdrawal 10-f of funds by the general edu- 10-g cation board, which board 10-h formerly paid said salary and 10-i expenses.		
11 Salaries of two assistant super- 12 visors of rural schools.....	7,200.00	7,200.00
13 Salary of supervisor of teacher- 14 training .....	3,600.00	3,600.00
15 Salary of director of physical ed- 16 ucation .....	3,300.00	3,300.00
17 Salary of supervisor of Negro 18 schools .....	3,600.00	3,600.00
19 Stenographers and other clerks....	12,000.00	12,000.00
20 Expenses for conducting uniform 21 examinations .....	8,500.00	8,500.00
22 Printing, binding and stationery..	27,500.00	27,500.00
23 Expenses of state superintendent..	500.00	500.00
24 Current general expenses.....	7,500.00	7,500.00
25 Traveling and other necessary ex- 26 penses of inspectors and super- 27 visors of colored schools, rural 28 schools, high schools, confer- 29 ences and other general ex- 30 penses .....	7,000.00	7,000.00
31 For investigation and research 32 work in co-operation with State 33 Board of Education in connec- 34 tion with elementary schools, 35 high schools and of institu- 36 tions of higher learning; for the 37 preparation and distribution of 38 courses of study; for the prepa- 39 ration and distribution of plans 40 and specifications for one, two, 41 three and four room schools and		

42	for the necessary printing and		
43-44	travel in connection therewith	10,000.00	10,000.00
45	<i>State Board of Education</i>		
46	Salaries of six members of State		
47	Board of Education.....	6,000.00	6,000.00
48	Salaries of two advisory members		
49	of State Board of Education....	2,000.00	2,000.00
50	Expenses of members of State		
51	Board of Education.....	3,500.00	3,500.00
52	Expenses of advisory members....	600.00	600.00
53	Salary and expenses of secretary..	5,000.00	5,000.00
54	Salaries of stenographers to sec-		
55	retary .....	1,800.00	1,800.00
56	To assist in rehabilitation work in		
57	co-operation with the Federal		
58	Government, payable on order		
59	of the State Board of Education		
60	and the State Board of Control..	17,500.00	17,500.00
61	Vocational education, payable on		
62	order of the State Board of Ed-		
63	ucation and State Board of		
64	Control .....	30,000.00	30,000.00
65	State aid to out of state students,		
66	to carry out the provisions of		
67	Chapter 10, Acts one thousand		
68	nine hundred and twenty-seven,		
69	to be disbursed by the State		
70	Board of Control upon requisition		
71	of the State Superintendent		
72	of Free Schools.....	7,000.00	7,000.00
	<i>General Expenses</i>		
73	Salaries of county superintendents	95,000.00	95,000.00
74	Compensation and expenses of		
75	institute instructors.....	15,000.00	15,000.00
76	The Auditor shall credit all delin-		
77	quent taxes due the State to the		
78	fund to which they belong, and		
79	the cost of certification of sale		
80	shall be paid out of the fund		
81	to which they are credited, and		
82	there is hereby appropriated so		

83 much as may be necessary for  
 84 the payment of the following  
 85 (payable on requisition of the  
 86 Auditor):

87 To pay salaries and current gen-		
88 eral expenses of land department	15,000.00	15,000.00

89 For the publication of the above  
 90 delinquent taxes, there is hereby  
 91 appropriated so much as may be  
 92 necessary at the rate fixed by  
 93 general law, payable on requisition of the Auditor.

95 In addition to the foregoing appropriations the balance of the receipts for each year of said fund is hereby appropriated for supplemental aid to schools in accordance with the provision of general law.

102 *Current Year Appropriation*

103 To pay cost of printing publications relating to elementary course of study and state school survey .....	7,500.00
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107 To pay expenses for conducting uniform examinations for remainder of year ending June thirtieth, one thousand nine hundred and twenty-nine.....	1,500.00
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112 To pay current general expenses for remainder of year ending June thirtieth, one thousand nine hundred and twenty-nine..	1,350.00
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116 The foregoing appropriations to  
 117 be available for payment upon  
 118 the passage of this Act.

SUB-SECTION "F"

Sec. 95. All appropriations appearing under Sub-Section 2 "F" are payable out of the State Road Fund of the State.

## STATE ROAD COMMISSION

*Automobile Bureau*

Sec. 96. For cost of manufac-		
2	turing license tags for sale to	
3	automobile owners, including	
4	cost of storage, envelopes for	
5	mailing, postage, freight, ex-	
6	press and cartage.....	90,000.00 90,000.00
7	Salaries of clerks, stenographers	
8	and other necessary assist-	
9	ants .....	115,000.00 115,000.00
10	To pay salaries and expenses of	
11	field agents for the enforcement	
12	of the collection of motor ve-	
13	hicle license taxes.....	20,000.00 20,000.00
14	<i>Administration Expenses</i>	
15	Salaries of the commissioners.....	22,500.00 22,500.00
16	Salaries of engineers, clerks, sten-	
17	ographers, property account-	
18	ing, recording and other assist-	
19	ants .....	137,500.00 137,500.00
20-21	Traveling expenses.....	30,000.00 30,000.00
22	Office rent, including heat, light,	
23	water and janitor service, in-	
24	cluding automobile bureau.....	15,000.00 15,000.00
25	Current general expenses, includ-	
26	ing automobile bureau.....	57,500.00 57,500.00
27	Federal Aid supervision.....	5,000.00 5,000.00
28	To pay premiums to the State	
29	Compensation Fund for the in-	
30	surance of employees.....	30,000.00 30,000.00
<i>Gasoline Tax</i>		
31-44	To pay all expenses in connec-	
45	tion with carrying out the pro-	
46	visions of Chapter 34, Acts one	
47	thousand nine hundred and	
48	twenty-three, as amended, re-	
49	lating to tax on gasoline; pay-	
50	able on requisition of State Tax	
51	Commissioner .....	17,500.00 17,500.00
52	For complying with and carrying	

53 out the provisions of section 83,  
54 good roads act, one thousand  
55 nine hundred and twenty-five,  
56 relating to refunds and for re-  
57 funding moneys erroneously  
58 paid through the commission  
59 into the treasury, such sums are  
60 hereby appropriated as may be  
61 erroneously paid.

62 In addition to the foregoing ap-  
63 propriations the balance or resi-  
64 due of the annual receipts of  
65 the state road fund are hereby  
66 appropriated for the payment  
67 of interest on and principal of  
68 outstanding road bonds, for  
69 maintenance and construction  
70 and reconstruction of state  
71 roads, in accordance with the  
72 provisions of the good roads act  
73 of one thousand nine hundred  
74 and twenty-one and amend-  
75 ments thereto sections 15, 23  
76 and 72.

77 To pay claims against the State  
78 Road Commission resulting  
79 from personal injury or prop-  
80 erty damages; this amount ap-  
81 propriated for remainder of  
82 year ending June thirty, one  
83 thousand nine hundred and  
84 twenty-nine, and to remain in  
85 effect until the claims are  
86 paid .....

11,875.62

87 *Provided*, that two hundred dol-  
88 lars of this amount shall be paid  
89 to Alvin Self of Brushy Run,  
90 West Virginia, and one hundred  
91 dollars to E. L. Bailey, of Spen-  
92 cer, West Virginia, for damages  
93 to his property.

## SUB-SECTION "G"

Sec. 97. All appropriations appearing under Sub-section 2 "G" are payable out of the special license fees authorized by 3 section 15, chapter 8, Acts of 1915 (regular session) and amend- 4 ment thereto.

*Public Service Commission*

2	Sec. 98. To pay salaries and		
3	current general expenses.....	80,000.00	80,000.00
4	<i>Provided</i> , that not more than		
5	\$5,000.00 of the foregoing ap-		
6	propriation may be expended		
7	annually in cooperation with the		
8	West Virginia Geological Sur-		
9	vey, and/or, the United States		
10	Geological Survey for investiga-		
11	tion of water power resources of		
	the state.		

## SUB-SECTION "H"

Sec. 99. All appropriations appearing under Sub-section 2 "H" are payable out of the fund created by chapter 9 Acts of 3 1915 (extraordinary session) and amendments thereto.

*Workmen's Compensation*

2	Sec. 100. Salary of State Com-		
3	ensation Commissioner.....	6,000.00	6,000.00
4	Current general expenses.....	250,000.00	250,000.00
5	To pay court costs, attorneys'		
6	fees and special auditing in case		
7	of State Compensation Com-		
8	missioner vs. the New River &		
9	Pocahontas Consolidated Coal		
10	Company to recover premiums	10,000.00	
11	Above appropriation to be payable		
12	during the year ending June		
13	thirty, one thousand nine hun-		
14	dred and twenty-nine, and to		
15	continue in effect until the pur-		
16	pose of the appropriation has		
	been carried out.		

## SUB-SECTION "I"

Sec. 101 All appropriations made by general law payable  
 2 out of special revenue, which special revenue is not required to  
 3 be paid into the general revenue of the state under the pro-  
 4 visions of Senate Bill 104, one thousand nine hundred and  
 5 twenty-nine legislature, are hereby authorized payable out of  
 6 the special revenue or collections made for the specific purposes.  
 7 All revenue collected under the Act of the one thousand nine  
 8 hundred and twenty-nine legislature relating to the construc-  
 9 tion of a capitol is hereby appropriated and authorized to be  
 10 expended for the purposes designated by the Act.

## SUB-SECTION "J"

Sec. 102. For refunding overpayments made into the treas-  
 2 ury on account of taxes, licenses, fines and commissions, to be  
 3 paid out of the fund into which they were paid, such an amount  
 4 as may be necessary for such purpose is hereby appropriated.

## SUB-SECTION "K"

No payments shall be made from appropriations appearing  
 2 in Sub-Section "K" in excess of the amounts hereinafter set  
 3 forth, and no payments shall be made in excess of the amount  
 4 of collections, for the particular institution, department, com-  
 5 mission or board, paid into the general revenue of the state.  
 6 under the provisions of Senate Bill 104, one thousand nine hun-  
 7 dred and twenty-nine legislature.

8 Payments may be made from the appropriations appearing  
 9 herein at any time during the fiscal year so long as the aggre-  
 10 gate for the year does not exceed the amount of the appropria-  
 11 tion and does not exceed the collections that will be made for  
 12 the year and paid into the general revenue of the state.

13 All appropriations appearing in "Part One" are payable on  
 14 the requisition of the head of the particular department, com-  
 15 mission or board.

16 All appropriations appearing under "Part Two" are payable  
 17 on the requisition of the State Board of Control.

## PART ONE

*Auditor's Office*

Sec. 6-a. Salary of fire mar-			
2 shal .....	\$	4,000.00	\$ 4,000.00
3 Salaries and current general ex-			

4	penses—Fire Marshal's Depart-		
5	ment .....	41,000.00	41,000.00
6	Salaries and current general ex-		
7	penses—Securities Department..	17,500.00	17,500.00
	<i>Department of Agriculture</i>		
	Sec. 12-a. Salaries and current		
2	general expenses relating to sire		
3	registration and nursery regis-		
4	tration .....	4,000.00	4,000.00
	<i>State Health Department</i>		
	Sec. 21-a. Salaries and current		
2	general expenses.....	6,000.00	6,000.00
	<i>Militia</i>		
	Sec. 25-a. Salaries and current		
2	general expenses.....	4,000.00	4,000.00
	<i>The Public Service Commission</i>		
	Sec. 98-a. Collections to pay		
2	salaries and expenses of expert		
3	engineers or other experts or		
4	qualified persons especially en-		
5	gaged and assigned to the work		
6	of investigation and supervision		
7	of proposed water power devel-		
8	opment as provided in section		
9	three, sub-section C and sec-		
10	tion six of sub-section B of		
11	the water power act of 1929.....	20,000.00	20,000.00
	<i>Forest, Game and Fish Commission</i>		
	Sec. K-1. To pay all salaries		
2	and expenses for administration		
3	of game and fish protection and		
4	propagation, including dissemi-		
5	nation of information by publi-		
6	cation or otherwise.....	152,420.00	154,120.00
7	To pay all salaries and expenses		
8	for forest fire control, construc-		
9	tion equipment, personnel, main-		
10	tenance, administration and re-		
11	forestation, including dissemi-		
12	nation of information by publi-		
13	cation or otherwise.....	85,000.00	86,000.00

## PART TWO

*State Board of Control*

2	Sec. 37-a. Collections for general expenses .....	\$ 1,500.00	\$ 1,500.00
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*Huntington State Hospital*

2	Sec. 38-a. Collections for general expenses .....	150,000.00	150,000.00
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*Spencer State Hospital*

2	Sec. 39-a. Collections for general expenses .....	20,000.00	20,000.00
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*Weston State Hospital*

2	Sec. 40-a. Collections for general expenses .....	30,000.00	30,000.00
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*State Hospital for Colored Insane*

2	Sec. 41-a. Collections for general expenses .....	10,000.00	10,000.00
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*McKendree Hospital No. 2*

2	Sec. 42-a. Collections for general expenses .....	18,000.00	20,000.00
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*State Tuberculosis Sanitarium*

2	Sec. 43-a. Collections for general expenses .....	160,000.00	180,000.00
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*Rutherford State Sanitarium*

2	Sec. 44-a. Collections for general expenses .....	30,000.00	40,000.00
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*State Colored Tuberculosis Sanitarium*

2	Sec. 45-a. Collections for general expenses .....	20,000.00	25,000.00
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*West Virginia Industrial School for Boys*

2	Sec. 46-a. Collections for general expenses .....	30,000.00	30,000.00
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*State Industrial School for Colored Boys*

2	Sec. 47-a. Collections for general expenses .....	5,000.00	6,000.00
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*West Virginia Industrial Home for Girls*

2	Sec. 48-a. Collections for general expenses .....	7,000.00	7,500.00
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*State Industrial Home for Colored Girls*

	Sec. 49-a. Collections for gen-		
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2	eral expenses .....	2,000.00	2,500.00
	<i>West Virginia Children's Home</i>		
	Sec. 50-a. Collections for gen-		
2	eral expenses .....	2,500.00	3,000.00
	<i>West Virginia Colored Orphans' Home</i>		
	Sec. 51-a. Collections for gen-		
2	eral expenses .....	1,500.00	2,000.00
	<i>State Home for Aged and Infirm Colored Men and Women</i>		
	Sec. 52-a. Collections for gen-		
2	eral expenses .....	15,000.00	20,000.00
	<i>Printing, Binding and Stationery</i>		
	Sec. 54-a. Collections for gen-		
2	eral expenses .....	20,000.00	25,000.00
	<i>West Virginia Geological Survey</i>		
	Sec. 55-a. Collections for gen-		
2	eral expenses .....	1,250.00	1,250.00
	<i>State Board of Children's Guardians</i>		
	Sec. 56-a. Collections for gen-		
2	eral expenses .....	2,000.00	2,000.00
	<i>Point Pleasant Battle Monument Commission</i>		
	Sec. 57-a. Collections for gen-		
2	eral expenses .....	500.00	500.00
	<i>Berkeley Springs Park</i>		
	Sec. 58-a. Collections for gen-		
2	eral expenses .....	3,500.00	4,500.00
	<i>West Virginia Penitentiary</i>		
	Sec. 68-a. Collections for gen-		
2	eral expenses, repairs and im-		
3	provements .....	400,000.00	400,000.00
	<i>West Virginia University</i>		
	Sec. 71-a. Collections for gen-		
2	eral expenses .....	300,000.00	300,000.00
	<i>Marshall College</i>		
	Sec. 74-a. Collections for gen-		
2	eral expenses .....	80,000.00	85,000.00
	<i>Potomac State School</i>		
	Sec. 75-a. Collections for gen-		
2	eral expenses .....	10,000.00	12,500.00

	<i>New River State School</i>	
2	Sec. 76-a. Collections for general expenses .....	25,000.00      30,000.00
	<i>Fairmont State Normal School</i>	
2	Sec. 77-a. Collections for general expenses .....	27,500.00      30,000.00
	<i>Concord State Normal School</i>	
2	Sec. 78-a. Collections for general expenses .....	18,000.00      20,000.00
	<i>Glenville State Normal School</i>	
2	Sec. 79-a. Collections for general expenses .....	16,000.00      18,000.00
	<i>Shepherd College State Normal School</i>	
2	Sec. 80-a. Collections for general expenses .....	11,000.00      12,500.00
	<i>West Liberty State Normal School</i>	
2	Sec. 81-a. Collections for general expenses .....	10,000.00      10,000.00
	<i>West Virginia Schools for the Deaf and the Blind</i>	
2	Sec. 82-a. Collections for general expenses .....	1,500.00      1,500.00
	<i>State Schools for Colored Deaf and Blind</i>	
2	Sec. 83-a. Collections for general expenses .....	1,000.00      1,000.00
	<i>West Virginia State College</i>	
2	Sec. 84-a. Collections for general expenses .....	17,500.00      17,500.00
	<i>Bluefield Colored Institute</i>	
2	Sec. 85-a. Collections for general expenses .....	4,000.00      4,500.00
	<i>Welch Hospital No. 1</i>	
2	Sec. K-2. Collections for general expenses .....	65,000.00      65,000.00
	<i>Fairmont Hospital No. 3</i>	
2	Sec. K-3. Collections for general expenses .....	48,000.00      48,000.00
	<i>State Board of Dental Examiners</i>	
2	Sec. K-4. Collections for general expenses .....	2,500.00      2,500.00

	<i>State Board of Examiners for Nurses</i>	
2	Sec. K-5. Collections for general expenses .....	2,500.00      2,500.00
	<i>Veterinary Examining Board</i>	
2	Sec. K-6. Collections for general expenses .....	250.00      250.00
	<i>State Board of Embalmers</i>	
2	Sec. K-7. Collections for general expenses .....	500.00      500.00
	<i>State Board of Examiners in Optometry</i>	
2	Sec. K-8. Collections for general expenses .....	1,500.00      1,500.00
	<i>Board of Architects</i>	
2	Sec. K-9. Collections for general expenses .....	1,900.00      1,900.00
	<i>Board of Engineers</i>	
2	Sec. K-10. Collections for general expenses .....	1,900.00      1,900.00
	<i>Board of Bar Examiners</i>	
2	Sec. K-11. Collections for general expenses .....	500.00      500.00
	<i>Board of Osteopathy</i>	
2	Sec. K-12. Collections for general expenses .....	500.00      500.00
	<i>Board of Examiners of Accountants</i>	
2	Sec. K-13. Collections for general expenses .....	250.00      250.00

2 Sec. 103. The appropriations herein made to or for any  
 3 state board or institution shall be drawn from the treasury upon  
 4 the requisition of the proper officers thereof made upon the  
 5 Auditor at such times and in such amounts as may be necessary  
 6 for the purposes for which such appropriations are made; and  
 7 the Auditor shall pay the amount named in any such requisition  
 8 at such time and in such installments as shall be necessary  
 9 for the purposes for which any such appropriation is made.  
 10 But all requisitions for appropriations for new buildings and  
 11 substantial betterments, except such as are under control of the  
 12 Board of Control, shall be accompanied by the architect's estimate that the amount named in such requisition is needed for

13 immediate use. The Auditor shall not issue his warrants to pay  
14 any money out of the state treasury unless the same is needed  
15 for present use.

16 The members of all state boards or commissions, unless a  
17 different rate of compensation is provided by law, shall be  
18 allowed four dollars per day for each day necessarily employed  
19 as such (including the time spent in going to and returning  
20 from the place of meeting) and the actual and necessary ex-  
21 penses incurred by them in the discharge of their duties, and  
22 no mileage shall be paid. But before payment of any such mem-  
23 ber of any such compensation or expenses, he shall make up in  
24 duplicate and certify to its correctness an itemized statement  
25 of the number of days spent (giving dates) and of the expenses,  
26 which statement shall be filed with the secretary or clerk of the  
27 institution, the original whereof the secretary or clerk shall file  
28 or preserve in his office, and the duplicate he shall at once for-  
29 ward to the Auditor. If any such member shall wilfully make  
30 a greater charge for such services or expenses than truth justi-  
31 fies, he shall be guilty of embezzlement and punished accord-  
32 ingly.

Sec. 104. All printing, binding; printing paper and station-  
2 ery for the state superintendent of free schools shall be paid  
3 for out of the general school fund. All of said printing, bind-  
4 ing, printing paper and stationery shall be purchased on requi-  
5 sition through the superintendent of public printing. No print-  
6 ing, binding or printing paper or stationery for the following  
7 named boards, officers or institutions shall be paid for out of the  
8 appropriation for public printing, public binding, or for sup-  
9 plying paper or stationery, but shall be paid for out of the ap-  
9-a propriations therefor herein made, or out of the expense fund  
9-b or current general expense fund thereof, namely:

10 The public service commission, the state road commission, the  
11 workmen's compensation department, the game and fish com-  
12 mission, the board of dental examiners, state vaccine agents, com-  
13 missioners of pharmacy, state board of optometry, state board  
14 of embalmers, Welch hospital No. 1, McKendree hospital No. 2,  
15 Fairmont hospital No. 3, state fire marshall, normal schools,  
16 schools for the deaf and blind, the university and all its  
17 branches, including the experiment station, Huntington, Weston  
18 and Spencer state hospitals, industrial school for boys, the West  
19 Virginia collegiate institute and the industrial home for girls,

20 the geological survey, Berkeley Springs board, state colored hos-  
21 pital for insane, state tuberculosis sanitarium, Rutherford Sani-  
22 tarium, state colored tuberculosis sanitarium, children's home,  
23 the Potomac state school, the New River state school, Bluefield  
24 colored institute, and all private schools or hospitals receiving  
25 state appropriations.

26 Such boards, officers and institutions, except the state super-  
27 intendent of free schools, that are herein required to pay for  
28 their own printing, stationery and printing paper and binding,  
29 have authority to procure the same, or have the same done on  
30 requisition of the Superintendent of Public Printing, or may  
31 buy such printing and stationery, or have such printing and  
32 binding done on competitive bids, under such rules as may be  
33 made by the commissioners of public printing.

34 When stationery or printing is procured from the superin-  
35 tendent of public printing or printing and binding are done on  
36 requisition of his office, by such board, officers or institutions,  
37 the superintendent of public printing as to such printing bind-  
38 ing, stationery and printing paper, shall certify the cost there-  
39 of to the auditor, stating to what officer, board or institution  
40 the same was furnished, and the auditor shall charge against  
41 the proper fund or appropriation of such officers, institution  
42 or board the amount thereof, and credit such amount to the  
43 proper appropriations made by this act for public printing,  
44 binding, stationery and printing paper. *Provided*, that the  
45 annual or biennial reports required by law to be made to the  
46 governor by such boards, officers and institutions shall be  
47 printed and paid for out of the appropriation for public print-  
48 ing, public binding and for supplying printing paper and sta-  
49 tionery, but all such reports shall be typewritten, or prepared  
50 in such a manner that the same shall be legible and suitable  
51 for printers' copy, and only so much of any such reports shall  
52 be printed as may be ordered by the governor; and no such  
53 reports shall be printed by the public printer except on requis-  
54 ition therefor, signed by the governor, which requisition shall  
55 state the number to be printed and how the same are to be  
56 bound. Such officers, boards and institutions as are required by  
57 law to make a report to the governor shall place the same in  
58 his hands as soon as the same are completed, and within ninety  
59 days after the close of the period which they are to cover.

Sec. 105. No sum of money shall be paid out of the treasury for the years ending June thirtieth, one thousand nine hundred and thirty, and one thousand nine hundred and thirty-one, beyond the amounts hereby appropriated, unless the same be provided for by constitution or some general law, and no money shall be hereafter drawn from the treasury to pay the salary of any officers or employees before their services have been rendered.

Sec. 106. Upon the adjournment of this session of the legislature, the clerk of the house and the clerk of the senate, shall jointly make up and furnish the auditor and treasurer, without delay, a certified copy of this and all other acts carrying appropriations.

Sec. 107. Appropriation made by the one thousand nine hundred and twenty-seven Legislature for the erection of a monument to the Union Soldiers, Sailors and Marines is hereby continued in effect and made available for expenditure during such time as would be authorized by law had said appropriation been made by this appropriation bill.

## CHAPTER 90

(Senate Bill No. 53—By Mr. Woodyard)

AN ACT to amend and re-enact section eight of chapter seventy-one of the acts of one thousand nine hundred and seventeen, relating to Spencer independent school district, as amended and re-enacted by chapter twenty-one of the acts of one thousand nine hundred and twenty-one, as further amended by chapter eighty-seven of the acts of one thousand nine hundred and twenty-seven.

[Passed February 8, 1929; in effect from passage. Approved by the Governor.]

Sec. 8. Powers of board of education: estimates and levies by; vote upon special levy by.

*Be it enacted by the Legislature of West Virginia:*

That section eight of chapter seventy-one of the acts of one thousand nine hundred and seventeen, relating to the Spencer independent school district, as amended and re-enacted by chapter twenty-one of the acts of one thousand nine hundred and twenty-

one, and as further amended by chapter eighty-seven of the acts of one thousand nine hundred and twenty-seven, be amended and re-enacted so as to read as follows:

Section 8. The board of education of Spencer independent school district shall also meet at the time and perform the duties required of boards of education (other than those for independent districts), except as herein otherwise provided, for the purpose of making, and shall make, estimates of the amount of money required to maintain the schools in said independent school district for the ensuing year, both as to the teachers' and various maintenance and building funds, and of providing for a sinking fund to pay off any bonded indebtedness; and said board of education shall determine the number of months of school to be taught in said district for said year, both in the high and graded schools and any department thereof, which shall not be fewer than nine months for any one year; and shall levy upon the taxable property in said independent school district a sufficient sum for said purposes, which, however, shall not exceed one dollar on each one hundred dollars valuation of the taxable property therein for teachers' funds, and such sum, not to exceed forty cents on each one hundred dollars valuation for maintenance and building funds; and also such sum as may be necessary to pay off any bonded indebtedness within the time provided by the proceedings had and orders entered in respect to bonded indebtedness and the obligation in respect thereto given.

The said levy of one dollar on each one hundred dollars valuation shall not be laid for the year one thousand nine hundred and twenty-nine, and thereafter, unless the question of said proposed levy of one dollar shall be authorized by a majority of the qualified voters of said Spencer independent school district at the regular school election for said district, provided by law to be held in the month of March, in the year one thousand nine hundred and twenty-nine. In the submission of the said levy of one dollar, separate ballots shall be prepared by the proper officers charged with the preparation of the regular election ballot, and said ballots shall be endorsed by the election officers as now provided by law, and be substantially in the following form:

36  For increased levy for teachers' fund.

37  Against increased levy for teachers' fund.

38 The result of said election, so far as the vote on said levy is  
39 concerned, shall be ascertained and declared in the same manner  
40 as the general results of said election.

41 In case a majority of said votes be in favor of said one dollar  
42 levy, then the said board of education is authorized annually  
43 to levy an amount not to exceed one dollar on each one hundred  
44 dollars valuation of the taxable property of said independent  
45 school district for a teachers' fund, which authority for said  
46 maximum levy shall remain in force until otherwise provided  
47 by law.

48 All acts and parts of acts inconsistent herewith, are hereby  
49 repealed.

## CHAPTER 91

(Senate Bill No. 77—By Mr. Hallanan)

AN ACT to amend and re-enact section three of chapter seventy-four of the acts of the legislature of West Virginia of one thousand nine hundred and eleven relating to the manner of holding elections for members of the board of education of the Charleston independent school district.

[Passed February 8, 1929: in effect ninety days from passage. Approved by the Governor.]

<p>SEC. 3. Duties of board of education as to elections; board to establish at least two voting precincts in</p>		<p>each ward; registration of voters; powers of county court relating to elections vested in board of education.</p>
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*Be it enacted by the Legislature of West Virginia:*

That section three of chapter seventy-four of the acts of the legislature of West Virginia of one thousand nine hundred and eleven, relating to the manner of holding elections for members of the board of education of the Charleston independent school district, be amended and re-enacted so as to read as follows:

Sec. 3. The said board of education shall determine the time, place and manner of holding all elections within said school district, and shall determine the manner of certifying the result thereof; the board of education of said district shall estab-

5 lish at least two voting precincts within each ward of the city  
6 of Charleston within said district, and the registration for the  
7 next preceding general election either municipal or for state  
8 and county officers shall be taken as the registration for such  
9 elections, and for this purpose the board of education shall have  
10 the use of the registration lists without cost.

11 All powers and duties heretofore vested in the county court  
12 relating to elections within the said district are hereby con-  
13 ferred on the board of education.

## CHAPTER 92

(Senate Bill No. 100—By Mr. Smith of Lincoln)

AN ACT to create and establish a joint-district high school for the districts of Sheridan, Laurel Hill, and Harts Creek, in the county of Lincoln, upon the site of Guyan Valley high school, and to provide for the maintenance thereof, and for the erection of future units thereto.

[Passed March 6, 1929; in effect from passage. Approved by the Governor.]

### SEC.

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Establishing of joint district high school; how board of education constituted.</li> <li>2. Organization and meetings of board.</li> <li>3. Term of president of board; duties.</li> <li>4. Board of education as corporation; title to school property vested in; contracts made by Sheridan district board ratified.</li> <li>5. Power of board to lay levies; purchase of real estate by; certain exemption from levy; special new building fund levy of previous session validated; liability of Sheridan district for.</li> <li>6. Duties of board as to furniture,</li> </ol> | <ol style="list-style-type: none"> <li>7. Transportation of high school pupils; allowance on transportation not furnished; limitation on allowance.</li> <li>8. Compensation and duties of secretary of board.</li> <li>9. Salary of commissioners; summer school; qualifications of pupils.</li> <li>10. Qualifications and duties of principal.</li> <li>11. Oaths of commissioners; how vacancies filled.</li> <li>12. Election to vote on withdrawal of certain districts from high school.</li> <li>13. Provisions of general school law to apply to high school.</li> </ol> |
|---|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That a high school be and the same is hereby  
2 established in the county of Lincoln, state of West Virginia, at  
3 Pleasant View, Sheridan district, at the site of the present  
4 Guyan Valley high school, which school shall continue to be  
5 known as Guyan Valley high school, but which shall hereafter  
6 be a joint-district high school, and the property of the three  
7 districts of Sheridan, Laurel Hill and Harts Creek, the board  
8 of education of which shall consist of the boards of

9 education of Sheridan, Laurel Hill, and Harts Creek districts  
10 acting jointly as a high school board.

Sec. 2. The said board of education at its first meeting, after  
2 the passage of this act, and on the first Monday in July, one  
3 thousand nine hundred and twenty-nine, and each succeeding  
4 year thereafter, on the first Monday in July, shall elect one of  
5 its members president, and shall appoint a secretary who is  
6 not a member of said board and who shall have no vote in its  
7 proceedings. Said board shall hold its meetings at the prin-  
8 cipal's office in the high school building, on the first Saturday  
9 of each month, during the school term, and at such other times  
10 as may be deemed necessary by the president, or any two mem-  
11 bers of the board, who are hereby authorized to call special  
12 meetings of said board for the transaction of any general or  
13 special business, of which meeting notice shall be given to each  
14 member of the board. A majority of said board shall constitute  
15 a quorum for the transaction of any and all business.

Sec. 3. The president of said board shall hold his office  
2 until his successor shall have been appointed, pursuant to this  
3 act, and shall perform such duties as usually devolve upon the  
4 presiding officer of a deliberative body, except that he shall  
5 have a vote upon each and every question as any other com-  
6 missioner, but he shall have but one vote upon any one ques-  
7 tion. In his absence, the board may choose a president pro  
8 tempore from among their number, who shall exercise all the  
9 powers and duties of the president of said board. Any mem-  
10 ber of this board may be removed in accordance with the  
11 provisions of general law.

Sec. 4. The Board of education of the said "Guyan Valley  
2 high school" shall be a corporation, by the name of the "Board  
3 of Education of Guyan Valley high school," and as such may  
4 sue and be sued, plead and be impleaded, contract and be con-  
5 tracted with; may purchase and hold such real estate and per-  
6 sonal property as it may deem necessary for the purpose of high  
7 school education in said district, and may receive and hold any  
8 gift, grant or donation, device or bequest, for the benefit of  
9 Guyan Valley high school; and shall succeed and be substituted  
10 to the rights of Sheridan district board of education of the dis-  
11 trict of Sheridan, in the county of Lincoln, in so far as relates  
12 to, or in any way affects the Guyan Valley high school. The  
13 title of all school property both real and personal located at

14 Guyan Valley high school, or on the premises thereof, or else-  
15 where, if used in connection with said high school, is hereby  
16 vested in said board of education and its successors. All con-  
17 tracts heretofore made by the Sheridan district board of educa-  
18 tion respecting said high school, are hereby ratified and af-  
19 firmed; *Provided*, that any litigation now pending or here-  
20 after arising by reason of any contract or contracts entered  
21 into by the board of education of Sheridan district shall be  
22 at the expense of the board of education of Sheridan district  
23 and any judgment rendered in any such litigation shall be  
24 paid by the board of education of Sheridan district. Said  
25 board of education of Guyan Valley high school shall have and  
26 exercise all rights and powers now conferred by law on district  
27 boards of education.

Sec. 5. The board of education of the said Guyan Valley  
2 high school, is hereby authorized, empowered, and directed to  
3 lay and collect annually such levies, not to exceed the legal  
4 levies permitted to boards of education by general law, on each  
5 one hundred dollars of the assessed valuation of all taxable  
6 property in said districts of Sheridan, Laurel Hill and Harts  
7 Creek, in the county of Lincoln, and state of West Virginia,  
8 beginning in the year one thousand nine hundred twenty-nine,  
9 as may be necessary for the purpose of providing funds for  
10 acquiring additional grounds for the campus, and building ad-  
11 ditions to the said Guyan Valley high school, when and as the  
12 same may be needed for future conditions. *Provided*, that not  
13 exceeding two hundred and fifty dollars may be paid for any lot  
14 of land as originally laid out on the map of Pleasant View, and  
15 that only such lots may be purchased as are necessary to com-  
16 plete the square on which the high school building is located,  
17 and the six lots necessary to complete the square on which the  
18 first twenty-four lots were purchased by Sheridan district board  
19 of education. *Provided, further*, that the said districts of Harts  
20 Creek and Laurel Hill shall not be taxed for the completion of  
21 unit Number two of said building now under construction, but  
22 that said unit shall be paid for entirely from the revenues of  
23 Sheridan district. *Provided, further*, that this act shall in no  
24 way invalidate the special new building fund levy, authorized  
25 by the legislature of one thousand nine hundred and twenty-  
26 seven, for the erection of said Guyan Valley high school, as

27 provided in section two of chapter seventy-six of the acts of  
28 one thousand nine hundred and twenty-seven, but that levy and  
29 the regular twenty cent new building fund levy shall be laid for  
30 the year one thousand nine hundred and twenty-nine, by Sheri-  
31 dan district board of education, and applied toward the present  
32 indebtedness of the district, so far as they pertain to Guyan Val-  
33 ley high school. The teachers levy for the Guyan Valley high  
34 school shall be used only in the payment of salaries for teachers,  
35 principal, librarian, and other assistants. *Provided, further,*  
36 that after paying all indebtedness, any money remaining in the  
37 high school funds of Sheridan, Laurel Hill, or Harts Creek dis-  
38 tricts, shall be transferred by proper orders to the board of  
39 education of Guyan Valley high school.

Sec. 6. It shall be the duty of the said board of education  
2 to provide, at the earliest possible date, furniture and fixtures,  
3 apparatus and appliances, and all other supplies which are, or  
4 may be necessary to meet the requirements for a first-class high  
5 school, and to keep the school property in good repair, and to  
6 supply said high school with proper fuel or light and heat, and  
7 other things necessary for the comfort and convenience of the  
8 said high school, and to pay the cost of the same out of the  
9 high school maintenance building fund, or the new building  
10 fund of said high school board of education. The said board  
11 shall also employ a janitor for the high school, and fix his com-  
12 pensation at not exceeding one hundred dollars per month, pay-  
13 able monthly as other salaries are paid, and may remove such  
14 janitor, for any cause, whenever it shall appear to said board,  
15 that his removal is for the best interest of said high school.

Sec. 7. The said board of education may make  
2 provisions for the transportation of high school pupils entitled  
3 to attend said high school, and for this purpose, it may purchase  
4 school busses, and employ capable drivers therefor, at not more  
5 than seventy-five dollars per month for the regular school term.  
6 Said school busses may only be used on county or state hard  
7 roads. The board shall, where it is impracticable to provide  
8 transportation for any pupil, allow such pupil, while attending  
9 said high school, the sum of fifteen dollars per month in lieu  
10 of transportation. Provided that, in no case, shall any such  
11 allowance be furnished to any pupil living within three miles  
12 of the high school, by the nearest traveled way, or within two

13 miles, by such traveled way, of any point where transportation  
14 facilities furnished by the board may be reached.

Sec. 8. The secretary shall hold office during the will and  
2 pleasure of the board, and shall receive such compensation as  
3 the board shall determine, not to exceed twenty-five dollars per  
4 month. The said secretary shall record in a book provided for  
5 the purpose all the official acts and proceedings of the board  
6 and the same shall be a public record, open to the inspection  
7 of all persons interested therein. He shall preserve in his of-  
8 fice at the high school, all papers containing evidences of title,  
9 contracts and obligations, and, in general, shall record and keep  
10 on file in his office, all such papers and documents as may be  
11 required by any of the provisions of this act, or by the order of  
12 the board of education. In the absence of such secretary, the  
13 board may appoint a secretary *pro-tempore*. Any vacancy in  
14 the office of secretary, shall be filled by the board for the un-  
15 expired term, at the regular salary herein provided for the  
16 secretary.

Sec. 9. The salary of each commissioner of the said high  
2 school board of education and the commissioner acting as presi-  
3 dent, as herein provided, shall be five dollars per day for not  
4 more than fifteen days in anyone year. The said high school  
5 board of education may annually make proper provisions for a  
6 summer school of nine weeks, beginning within one week of the  
7 close of each regular term, in accordance with the recommenda-  
8 tion of the principal of said Guyan Valley high school, and  
9 under his supervision. Said summer school shall be conducted  
10 in such a manner as to maintain the first-class standing of the  
11 high school. No pupil shall be entitled to enter Guyan Valley  
12 high school until the principal of the said school shall have  
13 satisfied himself that the said pupil has made due proficiency,  
14 in the grades below the one he wishes to enter.

Sec. 10. At any time after the first of January, in any year,  
2 the said board of education shall elect a principal of Guyan  
3 Valley high school, for a period of not more than three years,  
4 and fix his salary. Said principal shall be a graduate of some  
5 well recognized college or university, and shall have had at least  
6 three years' experience as principal or superintendent of a  
7 school, or system of schools, having a first-class high school rated  
8 and recognized as such by the state, at the time said principal or

9 superintendent was in charge of said school or schools. It shall  
10 be the duty of said principal to keep himself constantly ac-  
11 quainted with the conditions of the high school, and to make  
12 definite recommendations to the board of education for the  
13 efficient working and control of said high school, and, subject  
14 to the approval of the board, shall have final authority and  
15 control in determining the discipline and management of said  
16 school. He shall investigate and nominate to the board, a suf-  
17 ficient number of thoroughly qualified teachers, and a librarian  
18 or other assistants as, in his discretion, may be necessary to  
19 conduct the high school in such a way as to insure its first-class  
20 rating. He may, in case of sickness or other emergencies, em-  
21 ploy substitutes to be paid at the expense of teachers or other  
22 employees, off duty.

Sec. 11. Before entering upon their duties as school officers,  
2 each of said commissioners shall be required to qualify, by tak-  
3 ing and subscribing to the oath of office required by law of  
4 officers in this state. The secretary of the board of education  
5 or any person authorized to administer oaths are hereby author-  
6 ized to administer said oath, a copy of which shall be filed with  
7 the secretary and kept by him in the files of his office at the  
8 high school. Any vacancy that may occur in the office of school  
9 commissioner by death, resignation, refusal to serve, removal  
10 from the magisterial district from which he was elected, or other-  
11 wise, shall be filled by the county superintendent of free schools,  
12 within ten days after such vacancy occurs, by the appointment  
13 of a suitable person, who shall be a *bona fide* resident of the  
14 magisterial district from which his predecessor was elected, and  
15 who shall hold his office until the next general election, when a  
16 commissioner shall be elected for the unexpired term, as now  
17 provided by general law.

Sec. 12. At any time after November one, one thousand nine  
2 hundred and thirty-two, on petition of three hundred voters  
3 from either Laurel Hill, or Harts Creek district, the board of  
4 education of said district is hereby authorized, empowered and  
5 directed to call a special election to vote on the question of  
6 withdrawing from the said Guyan Valley high school which  
7 vote shall be determined by a two-thirds majority of the votes  
8 cast in said election. The special election herein provided shall  
9 be otherwise conducted in accordance with the provisions of

10 general law. In case of the withdrawal of either Laurel Hill  
 11 or Harts Creek districts from the said Guyan Valley high  
 12 school, as herein provided, said district shall automatically  
 13 surrender any and all its rights to said Guyan Valley high  
 14 school, or any property connected with said school, and the  
 15 title to said school and all said property shall thereafter be  
 16 vested in and be jointly under the control of the remaining dis-  
 17 trict or districts acting jointly as a high school board.

Sec. 13. The provision of the general school law of the state,  
 2 when not in conflict with or contrary to the provisions of this  
 3 act, shall be applicable to the Guyan Valley high school hereby  
 4 established.

5 All acts or parts of acts inconsistent with the provisions of  
 6 this act, in so far as they may relate to said high school, are  
 7 hereby repealed.

## CHAPTER 93

(Senate Bill No. 126—By Mr. Henshaw)

AN ACT to validate the proceedings authorizing the issuance of  
 school bonds of the board of education of the district of  
 Charles Town in the county of Jefferson, state of West Vir-  
 ginia, in the sum of one hundred and twenty-five thousand  
 dollars, authorized at an election held in the district of Charles  
 Town on the sixth day of November, one thousand nine hun-  
 dred and twenty-eight, by a vote of three-fifths of the voters  
 voting at said election upon the question of issuing said bonds  
 for the purpose of establishing a high school in or near the  
 town of Charles Town in the district of Charles Town, and  
 also for the purpose of establishing a colored grade school for  
 the colored pupils of school age in said district of Charles  
 Town, and to authorize the execution and sale of said bonds  
 and to provide a tax to pay the same and the interest thereon.

[Passed February 12, 1929; in effect from passage. Approved by the Governor.]

### SEC.

- |  |  |
|--|--|
| 1. Bonds for Charles Town high school validated.<br>2. Sale of bonds authorized; interest rate, etc. | 3. Form of bonds.<br>4. Levy by board of education to pay bonds.<br>5. Effective date. |
|--|--|

*Be it enacted by the Legislature of West Virginia:*

That certain proceedings authorizing the issuance of school bonds of the district of Charles Town in the county of Jefferson and state of West Virginia be validated and the execution and sale of said bonds be authorized; and that provision be made for a tax to pay the said bonds and the interest thereon.

Section 1. All proceedings authorizing the issuance of school bonds for the district of Charles Town in the county of Jefferson, state of West Virginia, in the sum of one hundred and twenty-five thousand dollars authorized at an election held on the sixth day of November, one thousand nine hundred and twenty-eight, by a vote of three-fifths of the voters of said district voting upon the question of issuing said bonds for the purpose of establishing a high school in the district of Charles Town and also to establish a grade school for the colored pupils of school age in said district as set out in the order of the board of education of the district of Charles Town in the county of Jefferson on the twenty-seventh day of September, one thousand nine hundred and twenty-eight, submitting the proposition of issuing said bonds to the voters of said district, are hereby in all respects validated and confirmed.

Sec. 2. The board of education of the district of Charles Town in the county of Jefferson, state of West Virginia, is hereby authorized to execute, make sale of and deliver the bonds described in section one of this act pursuant to the proceedings mentioned therein, which said bonds shall bear date as of the first day of January, one thousand nine hundred and twenty-nine, and interest at the rate of five *per centum per annum*, payable semi-annually, and be in the denomination of five hundred dollars each, and numbered from one to two hundred and fifty, both inclusive, and payable as provided in said order of the board of education of the district of Charles Town, in the county of Jefferson, made on the eleventh day of December, one thousand nine hundred and twenty-eight.

Sec. 3. Each of said bonds herein authorized and the coupons to be attached thereto shall be in words and figures as follows, to-wit:

4 UNITED STATES OF AMERICA  
5 STATE OF WEST VIRGINIA  
6 SCHOOL BONDS OF THE DISTRICT OF CHARLES

7 TOWN IN THE COUNTY OF JEFFERSON AND  
8 STATE OF WEST VIRGINIA.

9 KNOW ALL MEN BY THESE PRESENTS:

10 That the board of education of the district of Charles Town  
11 in the county of Jefferson and state of West Virginia, a cor-  
12 poration created and existing under and by virtue of the laws  
13 of the state of West Virginia, for value received, acknowledges  
14 itself to be indebted and promises to pay to the bearer the sum  
15 of five hundred dollars in gold coin of the United States of  
16 America of the present standard of weight and fineness, on the  
17 first day of January, 19....., together with interest thereon at  
18 the rate of five per cent *per annum*, payable semi-annually on  
19 the first day of July and the first day of January in each year  
20 until the maturity of the bonds; both the principal and interest  
21 thereon being payable to the bearer at the office of the treasurer  
22 of the state of West Virginia, or at the National City Bank of  
23 New York in the City of New York, at the option of the holder  
24 of this bond; said interest being payable only upon presenta-  
25 tion and surrender of annexed coupons as they severally be-  
26 come due and payable. This bond is one of thirty-one series  
27 of two hundred and fifty bonds of five hundred dollars each  
28 and aggregating one hundred and twenty-five thousand dollars,  
29 numbered consecutively from one to two hundred and fifty in-  
30 clusive, of like date, amount, tenor and effect, except as to num-  
31 ber and maturity, "issued for the purpose of establishing a  
32 high school in or near the town of Charles Town in the dis-  
33 trict of Charles Town for the separate use of the district of  
34 Charles Town, and for the purpose of establishing a colored  
35 grade school for the colored pupils of school age in said district  
36 of Charles Town."

37 The holder of this bond shall present the same for payment  
38 on the date and at the place or places fixed for payment thereof,  
39 and failure to so present said bond shall cause the interest  
40 thereon to cease, and no interest thereon shall be paid after this  
41 bond becomes due unless the same be presented and no interest  
42 coupon attached thereto shall bear interest after the date fixed  
43 for the presentation thereof unless presented.

44 It is certified that this bond is authorized by and is issued in  
45 conformity with the requirements of the constitution and  
46 statutes of the state of West Virginia, including an act passed  
47 by the legislature on the.....day of.....,

48 one thousand nine hundred and twenty-nine.

49 In testimony whereof, the board of education of the district  
50 of Charles Town in the county of Jefferson and state of West  
51 Virginia has caused this bond to be signed by its president and  
52 countersigned by its secretary with the corporate seal of the  
53 said board of education of the district of Charles Town in the  
54 county of Jefferson hereto affixed; and has caused annexed in-  
55 terest coupons to be executed with the engraved *fac simile* sig-  
56 natures of said president and secretary, and this bond is dated  
57 as of the first day of January, one thousand nine hundred and  
58 twenty-nine.

59 Board of Education of the District of  
60 Charles Town in the County of Jefferson.  
61 By....., President.

62 (SEAL)

63 Countersigned,

64 By....., Secretary.

65 Form of Coupon

66 No..... \$12.50

67 On the.....day of....., 19.....,

68 the board of education of the district of Charles Town in the  
69 county of Jefferson, state of West Virginia, will pay to the  
70 bearer twelve dollars and fifty cents at the office of the treasurer  
71 of the state of West Virginia, or at the National City Bank of  
72 New York, in the City of New York, at the option of the holder,  
73 it being six months interest on its bond number..... for five  
74 hundred dollars, dated the first day of January, one thousand  
75 nine hundred and twenty-nine.

76 Board of Education of the District of  
77 Charles Town in the County of Jefferson.  
78 By....., President.

79 Countersigned,

80 By....., Secretary.

Sec. 4. The board of education of the district of Charles  
2 Town in the county of Jefferson, state of West Virginia, shall  
3 annually at the levy term thereof make and lay a levy on all  
4 the taxable property in said district, sufficient in amount to pay  
5 the interest on the bonds herein authorized, and the principal  
6 thereof at maturity.

Sec. 5. The provisions of this bill shall take effect from 2 passage.

## CHAPTER 94

(Senate Bill No. 139—By Mr. Hallanan)

AN ACT to amend and re-enact section one of chapter seventy-four of the acts of the legislature of West Virginia of one thousand nine hundred and eleven, as amended by chapter one hundred and ten of the acts of the legislature of one thousand nine hundred and fifteen and by chapter seventy-two of the acts of the legislature of one thousand nine hundred and twenty-seven relating to the boundaries of Charleston independent school district.

[Passed March 1, 1929; in effect from passage. Approved by the Governor.]

SEC. 1. Boundary; approval of voters re-quired. | 2. Form of ballot; how election conducted; publication of notice.

*Be it enacted by the Legislature of West Virginia:*

That section one of chapter seventy-four of the acts of the legislature of West Virginia of one thousand nine hundred and eleven, as amended by chapter one hundred and ten of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen; and by chapter seventy-two of the acts of the legislature of one thousand nine hundred and twenty-seven, relating to the boundaries of Charleston independent school district, be amended and re-enacted so as to read as follows:

Section 1. That the boundaries of the Charleston independent school district, as defined in section one, of an act of the legislature of West Virginia, passed on the fifteenth day of February one thousand nine hundred and eleven, (being chapter seventy-four of the acts of one thousand nine hundred and eleven of said legislature) as amended by an act of the legislature of West Virginia, passed on the sixteenth day of February, one thousand nine hundred and fifteen, (being chapter one hundred and ten of the acts of one thousand nine hundred and fifteen of said legislature); and by an act of the legislature of West Virginia, passed on the first day of April,

12 one thousand nine hundred and twenty-seven, (being chapter  
13 seventy-two of the acts of one thousand nine hundred and  
14 twenty-seven of said legislature) be, and the same are hereby  
15 enlarged so as to include all the following described territory,  
16 lying within the Charleston independent school district, and  
17 the school districts of Charleston and Loudon in the county of  
18 Kanawha, state of West Virginia, namely:

19 Beginning at the upper or east property line of Patrick  
20 street at its intersection of the Kanawha river at low water  
21 mark in Charleston district; thence following the property  
22 lines on the east side of Patrick street north thirty-two de-  
23 grees forty-one minutes east to a point one hundred forty-  
24 seven and five-tenths feet northeast of the north property  
25 line of Second avenue; thence north fifty-seven degrees  
26 nineteen minutes west six hundred feet to an iron pipe;  
27 thence north thirty-two degrees forty-one minutes east five  
28 hundred and eighteen feet to the north right-of-way line  
29 of the New York Central railroad company; thence fol-  
30 lowing the north right-of-way line of said railroad west-  
31 erly to Two Mile creek; thence following the center of Ka-  
32 nawha Two Mile creek in a northeasterly direction to a  
33 point in the northeast line extended of lot five, block thirty-  
34 eight of West Charleston; thence in a northeast direction  
35 in a straight line to the southwest corner of the Littlepage  
36 Hill addition at the intersection of Charleston street and  
37 the Sissonville road; thence north seventy degrees thirty-  
38 five minutes east three hundred feet; thence north sixty-  
39 six degrees fifteen minutes east two hundred and one feet;  
40 thence north fifty-six degrees east ninety-nine feet; thence  
41 north forty-two degrees east one hundred and ninety-one  
42 feet; thence north seventy-eight degrees thirty minutes east  
43 one hundred ninety feet; thence south fifty-four degrees  
44 east sixty-two feet to the northeast corner of the Littlepage  
45 Hill addition; thence south fifty-six degrees east one hun-  
46 dred and seventy feet to the northeast corner of the Sun-  
47 set View addition; thence in a northeast direction following  
48 the north line of the Bellevue addition to the west line of  
49 the Parsons-Poling addition; thence in a northeast direc-  
50 tion following the west line of the Parsons-Poling addition  
51 to the northwest corner of said addition; thence east fol-  
52 lowing the northeast line to the northeast corner of said

53 addition; thence east following the north line of the Valley  
54 View addition to the west line of the Fairview addition;  
55 thence south twenty-eight degrees west to the north line  
56 extended of lot two hundred and sixty-one of the second  
57 resubdivision of Fairview; thence south sixty-two degrees  
58 east with the south line of an alley extended to the east  
59 side of Chandler road; thence south forty-four degrees  
60 forty-five minutes west eighty feet more or less to a point  
61 marked three hundred and ninety-six on said Fairview  
62 map; thence south sixty-two degrees fifteen minutes west  
63 eighty feet; thence south seventy-one degrees twenty-five  
64 minutes west seven and twenty-one one-hundredths feet;  
65 thence south sixty-two degrees east two hundred thirty and  
66 seventy-four one-hundredths feet to the west line of lot  
67 one hundred and fourteen; thence north twenty-eight de-  
68 grees east one hundred seventy-seven and five one-  
69 hundredths feet to the northwest corner of lot one hundred  
70 and seventeen; thence south sixty-two degrees no minutes  
71 east one hundred and fifty feet to the northeast corner of  
72 lot one hundred and seventeen; thence by a straight line  
73 to the southeast corner of lot two hundred and eight; thence  
74 north two hundred and eighty east one hundred and  
75 twenty feet to the northwest corner of lot two hundred  
76 and eight; thence south sixty-two degrees east one hundred  
77 and forty-two six one-hundredths feet with the north lines  
78 of lots two hundred and eight and two hundred and seven  
79 to the northeast corner of lot two hundred and seven; thence  
80 by a straight line to the northwest corner of lot two hun-  
81 dred and four; thence south sixty-two degrees east one  
82 hundred and twenty feet to the northeast corner of lot two  
83 hundred and four; thence by a straight line to the north  
84 corner of lot two hundred and fifty-three of Fairview;  
85 thence north two hundred and eighty degrees east with the  
86 east side of Wilton avenue three hundred and eighty-nine  
87 eighty-four one-hundredths feet to a point; thence by a line  
88 curving to the right with a radius of two hundred and  
89 twenty-nine two one-hundredths feet to the northeast cor-  
90 ner of lot six hundred and sixty-five Fairview; thence with  
91 the south side of Wood road in Edgewood Park to the  
92 northeast corner of lot three of Edgewood Park; thence  
93 with the east line of lot three south thirteen degrees ten

94 minutes east one hundred and seventy-one eight one-  
95 hundredths feet to the southeast corner of lot three; thence  
96 with the south line of lot two south forty-four degrees one  
97 minute east twenty-two four one-hundredths feet; thence  
98 south twenty-nine degrees twenty-eight minutes east twenty  
99 feet; thence south forty-one degrees forty-four minutes east  
100 nine seven one-hundredths feet; thence south sixty-four de-  
101 grees forty minutes east twenty-five feet; thence south  
102 thirty degrees west crossing Edgewood drive to a point  
103 one hundred and twenty feet south of the south line of  
104 Edgewood drive; thence in a westerly and southerly direc-  
105 tion one hundred and twenty feet from and parallel to the  
106 east line of Edgewood drive to a point three hundred and  
107 ten feet from the north line of lot seventy-four, block G  
108 Edgewood; thence with a straight line in an easterly direc-  
109 tion to a stake at the extreme northern end of Carr street;  
110 thence with a straight line to the northwest corner of lot  
111 sixteen of block D of the Sunkist Heights addition; thence  
112 with the north line of the Sunkist Heights addition to  
113 Magazine road; thence with Rockway road to a point two  
114 hundred feet from Magazine road; thence with a line par-  
115 allel to and two hundred feet from Magazine road to the  
116 south line of the Hope property; thence with a straight  
117 line to the west corner of lot thirty-one, block F of the  
118 Allen addition; thence following the back line of the Allen  
119 addition to the Hillsdale addition; thence with the north  
120 line of the Hillsdale addition to the northeast corner of lot  
121 eighty of the Hillsdale addition; thence east by a straight  
122 line to the center of the branch in Gill hollow; thence with  
123 the center of the branch in Gill hollow extended to the low  
124 water mark on the south side of Elk river; thence down  
125 said Elk river at low water mark to a point in the center  
126 of Coal branch; thence in a straight line to the northeast  
127 corner of lot one, block one of the Capitol Hill property,  
128 as shown on the map of same and recorded in the office  
129 of the clerk of the county court of Kanawha county; thence  
130 in a straight line to the southwest corner of lot thirteen of  
131 the Jeffries Hill land; thence with a straight line to the  
132 southeast corner of lot two of the Jeffries Hill land; thence  
133 in a straight line to the northwest corner of the East Wood-

134 land addition; thence with the north line of the East Wood-  
135 land addition to the northeast corner thereof; thence east  
136 crossing Ruffner Hollow drive to a point two hundred feet  
137 east of Ruffner Hollow drive; thence in a southerly direc-  
138 tion two hundred feet east of and parallel to Ruffner Hol-  
139 low drive to a point two hundred feet from Piedmont road;  
140 thence in an easterly direction parallel with the Piedmont  
141 road and two hundred feet northeast of same to a point in  
142 the west line extended of lot forty-four of the Floyd addi-  
143 tion to the city of Charleston; thence in a northeasterly di-  
144 rection to the southwest corner of lot two of the Floyd addi-  
145 tion; thence in a northerly direction following the back line  
146 of lots two to thirty-six inclusive of the Floyd addition to  
147 the northwest corner of lot thirty-six of the Floyd addition;  
148 thence in a southeasterly direction following the northeast  
149 line of Floyd's addition to the northwest corner of lot  
150 thirty-seven of the Floyd addition, also corner to a lot  
151 owned by L. E. McWhorter; thence in a northeast direction  
152 to a pine tree at the north corner of the said L. E. Mc-  
153 Whorter lot; thence in a southeast direction to the north-  
154 east corner of lot three hundred and ninety-four of the  
155 Riverview addition; thence following the westerly line of  
156 Lower way to Wilson way; thence following the westerly line  
157 of Wilson way to the southeast corner of lot fifty of the River-  
158 view addition; thence in a southeasterly direction to the  
159 northwest corner of lot sixty-five of the Riverview addition;  
160 thence following the south line of Midway easterly, to the  
161 northeast corner of lot seventy; thence following the east  
162 line of lot seventy extended to low water mark of the  
163 Kanawha river; thence with low water mark of Kanawha  
164 river to a point opposite the east line of Twenty-seventh  
165 street, Kanawha City; thence across said river to the east  
166 side of Twenty-seventh street, Kanawha City in Loudon  
167 district; thence with the east side of Twenty-seventh street  
168 extended to a point in the south line of the county road;  
169 thence easterly with the south line of the county road to  
170 the east line of the school lot; thence with the east line  
171 of the school lot extended to a point five hundred feet  
172 south of the Chesapeake & Ohio Railroad right-of-way;  
173 thence westerly five hundred feet from and parallel to the  
174 Chesapeake & Ohio right-of-way to a point in the west

175 line of the Loudon Heights addition; thence in a southerly  
176 direction with the west line of the Loudon Heights addition  
177 to the south corner of lot twenty of said Loudon Heights  
178 addition; thence with a straight line to the east corner of  
179 block one in the subdivision of south Charleston; thence  
180 in a southwesterly direction with the southerly lines of  
181 blocks one, two, three and four of the subdivision of South  
182 Charleston to the southeast corner of Block four of the  
183 said subdivision; thence with the southwesterly lines of  
184 blocks four, five and eight of the subdivision of South  
185 Charleston to Bridge avenue; thence southwesterly to the  
186 intersection of the west side of Bridge avenue and the  
187 north side of Ravinia drive; thence westerly with the north  
188 side of Ravinia drive to Ferry Branch; thence northerly  
189 with the center of Ferry Branch to a point in the old cor-  
190 poration line where same intersects Ferry Branch; thence  
191 down Ferry Branch to the Chesapeake & Ohio right-of-  
192 way as follows; north eight degrees fifteen minutes east six  
193 hundred and sixty feet; north seven degrees west two  
194 hundred and sixty-four and two-fifths feet; north one degree  
195 thirty minutes west two hundred and fifteen feet; north  
196 fifteen degrees west one hundred and forty feet; north  
197 seven degrees thirty minutes east one hundred and ninety-  
198 four and one-tenth feet; north twenty-nine degrees east  
199 three hundred and seventy feet; north thirty-one degrees  
200 east three hundred and forty-nine and seven-tenths feet;  
201 north eighteen degrees west three hundred and ninety feet;  
202 north thirty-seven degrees thirty minutes west two hun-  
203 dred and eighty feet; north forty degrees thirty minutes  
204 west two hundred feet; north thirty degrees thirty minutes  
205 east three hundred and fifteen feet; north one degree thirty  
206 minutes east two hundred and ninety-four feet; north fifty  
207 degrees thirty-four minutes east two hundred feet; north  
208 forty-one degrees east seven hundred and eighty-one feet; north  
209 seventy-nine degrees east four hundred feet; north one de-  
210 gree thirty minutes west eight hundred ten feet to low  
211 water mark of the Kanawha river at the mouth of Ferry  
212 Branch; thence down the Kanawha river at low water mark  
213 on the south side of said river to a point opposite the upper  
214 or east line of Patrick street; thence across the Kanawha  
215 river to the place of beginning.

216 *Provided, however,* that before this act shall take effect it  
217 shall be submitted to the voters of the several school districts  
218 out of which said Charleston independent school district is to  
219 be formed, that is to say, to the voters of Loudon and Charles-  
220 ton districts and of the said Charleston independent school  
221 district, at a special election to be held in said several districts  
222 under the direction and control of the county court of  
223 Kanawha county, on the third Tuesday in May, one thous-  
224 and nine hundred and twenty-nine.

Sec. 2. The tickets for said special election shall have written  
2 and printed thereon "for independent school district" and  
3 "against independent school district." Such election shall be  
4 held at such of the voting places established for general elec-  
5 tions in said districts of Loudon, Charleston and Charleston in-  
6 dependent school districts as said court may prescribe. Said  
7 election shall be conducted and the result thereof ascertained by  
8 officers to be appointed by said county court for the purpose,  
9 who shall certify the result thereof at each voting place to said  
10 county court and said county court shall canvass said returns of  
11 said election and determine and declare the result thereof.

12 Notice of said election shall be given by the said county court  
13 by publication once a week for two successive weeks prior there-  
14 to in two newspapers of opposite politics, published in the City  
15 of Charleston, Kanawha county, West Virginia, and having  
16 general circulation in said districts of Loudon and Charleston  
17 and Charleston independent school districts.

18 If the majority of the votes cast upon said question at said  
19 election shall be for said independent school district, then said  
20 territory hereinbefore described, shall thereafter be included in  
21 and constitute the said Charleston independent school district.

22 If the majority of the votes cast on said question in said  
23 election shall be against said Charleston independent school dis-  
24 trict then the boundaries of the territory embraced in the  
25 Charleston independent school district, shall remain as at  
26 present, that is to say, as provided by section one of chapter  
27 seventy-four of the acts of the legislature of West Virginia  
28 of one thousand nine hundred and eleven, as amended by chap-  
29 ter one hundred and ten of the acts of the legislature of one  
30 thousand nine hundred and fifteen and chapter seventy-two of  
31 the acts of the legislature of one thousand nine hundred and  
32 twenty-seven.

## CHAPTER 95

(House Bill No. 79—By Mr. Mathews of Kanawha)

AN ACT to amend and re-enact sections one, three and four of chapter one hundred fifteen of the acts of the legislature of West Virginia, regular session, one thousand nine hundred nineteen, and section two of chapter fifty-three of the acts of the legislature of West Virginia, nineteen hundred twenty-one, entitled "an act authorizing the establishment of a school teachers' retirement pension fund for the Charleston independent school district, of Charleston."

[Passed March 1, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

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| <p>1. A school employees retirement pension fund.</p> <p>2. How constituted.</p> | <p>3. Purpose of.</p> <p>4. Public schools and employees defined.</p> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. The Board of Education of the Charleston Independent school district is hereby authorized to establish a school employees' retirement pension fund for the Charleston Independent school district, and to adopt and enforce rules and regulations not inconsistent herewith, for the creation, maintenance, government, investment and distribution of said fund.

Sec. 2. Said fund if so established, shall be made up of (a) such sums as the said board of education shall from time to time appropriate for the benefit of said fund from the school funds of the Charleston Independent school district; (b) such donations, legacies and gifts as shall at any time be made for the benefit of said fund.

Sec. 3. Said fund, if so established, shall be maintained solely for the benefit of retiring school employees who shall have rendered long service in the employ of said board of education, and who retire from service after such length of time as shall, by uniform rules, be fixed by said board.

Sec. 4. The words "Public schools" as used in this act shall be taken to include the primary or sub-district schools, the junior high schools and the high schools of the Charleston Independent school district, of Charleston, and the words



[Passed February 26, 1920; in effect from passage. Approved by the Governor.]

Sec.

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| <ol style="list-style-type: none"> <li>1. Boundaries of school district.</li> <li>2. Board of education, terms.</li> <li>3. Successor to present board; how elected; terms of office; oath of office.</li> <li>4. How vacancy in board filled; secretary of board; oath and duties.</li> <li>5. Meetings of board; compensation of members.</li> <li>6. Board to be a body corporate; powers.</li> <li>7. Board to have exclusive control over schools in the district.</li> </ol> | <ol style="list-style-type: none"> <li>8. Board to provide suitable buildings, furniture, etc.; may provide medical and dental inspection.</li> <li>9. Appointment of superintendent of schools; compensation, duties and powers.</li> <li>10. Power of board as to teachers, janitors, etc.</li> <li>11. Duty of board as to annual estimates and levies.</li> <li>12. General school law not inconsistent herewith to apply; election in Washington district required.</li> </ol> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. The Washington independent school district in 2 the county of Pleasants and state of West Virginia is hereby 3 created and shall include the territory contained within the 4 boundaries of the magisterial district of Washington in the said 5 county of Pleasants and state of West Virginia.

Sec. 2. There shall be a board of education of the said Wash- 2 ington independent school district consisting of a president 3 and two commissioners, residents thereof, to be elected by the 4 qualified voters of said district, the terms of office of each of 5 whom shall be four years. The present members of the board 6 of education of said magisterial district of Washington in said 7 county shall hold office until the expiration of their respective 8 terms, or until their successors have been chosen.

Sec. 3. Successors to the present members of the board of 2 education of said Washington independent school district shall 3 be chosen at the general election to be held on the first Tuesday 4 after the first Monday of November, one thousand nine hundred 5 and thirty and one thousand nine hundred and thirty-two, and 6 as provided under section forty-one of chapter forty-five, 7 Barnes' code, one thousand nine hundred and twenty-three, the 8 said president and commissioners of said board shall be elected 9 for, and hold their office four years, beginning on the first day 10 of July after said election, unless sooner removed from office 11 for cause. The officer so elected shall, within twenty days after 12 his election or appointment, and before he shall enter upon the 13 duties of his office, take and subscribe the oath of office as pre- 14 scribed for district officers as provided by general laws, which 15 may be done before any person authorized by law to administer 16 oaths, or before the president of the board of education of said

17 independent school district, which said oath of office, together  
18 with the certificate of the officer administering the same, shall  
19 be filed with the said board of education.

Sec. 4. Any vacancy that may occur in the office of said  
2 board by death, resignation, refusal to serve or otherwise, shall  
3 be filled by the board of education of the said district at their  
4 first regular meeting thereafter, or as soon as circumstances  
5 will permit, by the appointment of a suitable person, who shall  
6 hold his office until the next election of members of said board,  
7 when a member shall be elected for the unexpired term.

8 The said board of education of said independent district, at  
9 its first meeting to be held on the first Monday of July of each  
10 year, shall appoint a secretary who shall not be a member of  
11 the board, and who shall, before entering upon the discharge of  
12 his duties, take the oath prescribed by law, and attend all meet-  
13 ings of the board, and record their official proceedings in a book  
14 kept for that purpose, showing the number of each order issued,  
15 the name of the payee, the purpose for which issued and the  
16 amount thereof, which record shall be attested by his signature  
17 and the signature of the president of the board. He shall perform  
18 all such other duties as such secretary as are prescribed by section  
19 sixty-nine of chapter forty-five, Barnes' code, one thousand nine  
20 hundred and twenty-three, and such other duties as are im-  
21 posed upon secretaries of boards of education under said chap-  
22 ter forty-five, Barnes' code, one thousand nine hundred and  
23 twenty-three.

Sec. 5. The board of education shall hold regular meetings  
2 at such times and places as may be designated by proper order  
3 entered in its record; and special meetings may be called by  
4 the president or at the request of any member, by the secre-  
5 tary. For the transaction of business, a quorum of not less  
6 than two members shall be required and the concurrence of two  
7 members shall be required to elect a superintendent or teachers  
8 and to decide all questions involving the expenditure of money.  
9 Each member of the said board shall be entitled to receive as  
10 compensation for his services three dollars per day in each  
11 day spent in the performance of his official duties; *provided*,  
12 *however*, that the president of said board shall not receive pay  
13 for more than fifteen days, and no commissioner shall receive  
14 pay for more than twelve days in any year.

Sec. 6. The board of education of the said Washington independent school district shall be a body corporate in law, and as such may purchase, hold, sell or convey real estate or personal property for the purpose of education within the district; may receive any gifts, grant, donation or devise; may become party to suits and contracts and do other corporate acts. They shall have the management and be vested with the title to all real and personal property for the use of the public schools within the district, and shall manage and dispose of the same as will, in their opinion, best subserve the interest of the district.

Sec. 7. The board of education shall have exclusive control over all schools within the district; shall fix the length of the school term and shall have power to make all necessary rules and regulations for the government of the schools of the district, for the admission of pupils therein and for the exclusion of pupils whose attendance would be dangerous to the health or detrimental to the morals or discipline of the school. Said board shall arrange for the taking of the enumeration each year of all the youth living within the district, between the ages of six and twenty-one before the first day of July. They may prescribe text books for the use of the schools in the district, or supplement the list adopted for the county, and may furnish books and stationery for the use of indigent children in attendance at the schools. They may furnish all necessary apparatus and books for the use of the schools and incur all other expenses necessary to make the system efficient for the purpose for which it was established, and pay the same from the building fund of the district. They shall have power to establish such other departments in said schools, such as manual training, music, drawing, or other departments, as shall be deemed advisable to the interest of said independent school district.

Sec. 8. The board of education shall provide by purchase, lease, building, or otherwise, a sufficient number of suitable school houses and other buildings to meet the educational needs of the district and shall also provide such furniture, fixtures, and apparatus for said school houses and other buildings, as may be necessary for the effectiveness of the schools and for the convenience, health and cleanliness of the pupils, and shall cause the school property to be kept in good order and repair. The board of education shall have authority to sell any school

10 buildings when in its judgment, they are improperly located  
11 or unsuitable for school purposes. Said board, may at its  
12 discretion, provide proper medical and dental inspection of  
13 pupils.

Sec. 9. The board of education shall have authority to ap-  
2 point a superintendent of schools for the said Washington in-  
3 dependent school district of said Pleasant county at any time  
4 after the first of January in any year. The compensation of  
5 said superintendent shall be fixed by the board of education.  
6 Said superintendent, in addition to the duties specified in this  
7 act, shall perform such other appropriate duties with relation  
8 to the schools of said independent district as the board may  
9 prescribe. He shall be liable to removal by the board of edu-  
10 cation for any palpable violation of the law or omissions of  
11 duty, or for other good and sufficient cause, but he shall not  
12 be removed unless charges be preferred to the board by a mem-  
13 ber thereof, and notice of a hearing, with a copy of the charges  
14 delivered to him, and an opportunity be given him to be heard  
15 in his defense.

16 Said superintendent shall exercise general supervision over  
17 all schools of the district and shall prepare and revise, with the  
18 approval of the board, courses of study to be used in the  
19 schools.

20 He shall recommend for appointment teachers to be em-  
21 ployed in the district schools and shall make all necessary re-  
22 ports and, insofar as he is able, shall furnish such information  
23 relating to the schools as the board of education may desire.

Sec. 10. At any time after January first, the board of edu-  
2 cation shall have power and authority to employ, for the en-  
3 suing school year, teachers, janitors, truant officer and other  
4 employees for the public schools of the district and fix their  
5 salaries and shall establish rules and regulations to which they  
6 shall be subjected and may be removed at any time for proper  
7 cause. Said board shall have the power of prescribing the  
8 qualifications of teachers in the schools of the district, and may  
9 appoint an examining committee for the purpose of examining  
10 applicants for positions as teachers and granting certificates to  
11 those found qualified to teach in the schools.

Sec. 11. It shall be the duty of the board of education of the  
2 Washington independent school district of said Pleasants county  
3 annually, at the same time and in the same manner now pro-

4 vided, or that may hereafter be provided by the general school  
5 law of this state, for the ascertaining and making of estimates  
6 and the fixing and laying of school levies by the boards of edu-  
7 cation of the various school districts within the state for the  
8 support of the free schools therein, to ascertain and to make  
9 such estimates of the amounts necessary for the support of the  
10 schools within the said independent district, to determine, fix  
11 and lay such levies on the property located within said inde-  
12 pendent district for the support therein. It shall be the duty  
13 of the board of education annually, at such meeting to levy as  
14 many cents on each one hundred dollars of valuation of the tax-  
15 able property of the district, according to the last assessment  
16 thereof, as will produce the amount shown by the estimate of  
17 said board to be necessary to be levied for the different school  
18 fund purposes as provided in the general school law of the  
19 state, which will continue adequately the schools of the district  
20 for a minimum term of nine months and the board of education  
21 of said independent school district is hereby authorized and  
22 empowered to lay a levy in addition to the levies authorized by  
23 the general school law of the state, sufficient for all purposes to  
24 conduct the schools of said independent district for the term  
25 fixed.

Sec. 12. All provisions of the general school law of this state,  
2 and all laws and acts heretofore existing, which are in any  
3 manner inconsistent with the provisions of this act, shall be  
4 void within the district, otherwise, the said general school law  
5 shall remain in full force and effect in this district, as elsewhere  
6 in this state. *Provided, however,* that the provisions of this act  
7 shall not apply to said magisterial district of Washington in  
8 said county of Pleasants until the qualified voters residing  
9 therein, by a majority of votes cast at a special or general elec-  
10 tion, called by the board of education of said district, declare  
11 in favor thereof.

## CHAPTER 98

(Senate Bill No. 106—By Mr. Watkins)

AN ACT to authorize the board of education, Fetterman district of  
Taylor county, to transfer funds now in the high school main-  
tenance fund of that district to the high school teachers' fund.

[Passed February 26, 1929; in effect from passage. Became a law without the approval of the Governor.]

SEC. 1. Board of education authorized to transfer certain money to high school teachers fund.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of education of Fetterman district, 2 Taylor county, is hereby authorized to transfer the sum of one 3 thousand seven hundred and fifty-one dollars and ninety-four 4 cents now in the high school maintenance fund of said district 5 to the high school teachers' fund of said district and to use such 6 funds for all of the purposes now authorized by law for high 7 school teachers' funds.

## CHAPTER 99

(House Bill No. 13—By Mr. Reed)

AN ACT to authorize the board of directors of the Clay county high school to appropriate and use the funds levied for dormitory purposes to construct and equip additional buildings for classroom and other purposes.

[Passed January 31, 1929; in effect from passage. Approved by the Governor.]

SEC. 1. Transferring Clay county high school dormitory fund.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of directors of the Clay county high 2 school are hereby authorized to use all funds formerly levied 3 by said board of directors under the provisions of section 4 eighty-three of chapter forty-five of Barnes' code of West 5 Virginia, and held by them as a dormitory fund, for the pur- 6 pose of constructing additional buildings other than a dormi- 7 tory, for classroom and other purposes in connection with 8 said Clay county high school.

## CHAPTER 100

(House Bill No. 40—By Mr. Cooper)

AN ACT to validate the high school at Glen Rogers, in Slab Fork district, Wyoming county, West Virginia, and to authorize its maintenance and support.

[Passed February 12, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec.

1. Validating Glen Rogers high school.
2. How controlled and maintained.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The high school at Glen Rogers in Slab Fork 2 district of Wyoming county, West Virginia, is hereby in all 3 respects, validated and confirmed.

Sec. 2. The board of education of said Slab Fork district 2 is hereby authorized to maintain and control said high school 3 in the same manner, and under the same limitations as are 4 provided for high schools established under section seventy- 5 eight of chapter forty-five of Barnes' code of West Virginia of 6 one thousand nine hundred and twenty-three.

## CHAPTER 101

(House Bill No. 40—By Mr. Fonner)

AN ACT to amend and re-enact sections one and four of chapter twenty-three of the acts of the legislature of one thousand nine hundred and seven, establishing a high school in the county of Tyler, state of West Virginia.

[Passed February 11, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

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| <ol style="list-style-type: none"> <li>1. Board of directors for.</li> <li>4. Levy for; transportation of pupils,</li> </ol> |  | <p>how paid; property exempt from<br/>levy.</p> |
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*Be it enacted by the Legislature of West Virginia:*

That sections one and four of chapter twenty-three of the acts of the legislature of one thousand nine hundred and seven be amended and re-enacted so as to read as follows:

Section 1. That a high school has been established and the same is now operating in the county of Tyler, in the town of Middlebourne, state of West Virginia, which is known as "The Tyler County High School." The board or directors of the said high school shall consist of the presidents of boards of education in the several districts not now maintaining a first class high school, and the term of office of said board of directors shall be for the term of office for which the members thereof were elected or appointed. The county superintendent of free schools of said county shall be a member and also ex-officio president of the Tyler county high school board of directors.

Sec. 4. For the purpose of increasing grounds and buildings, as the growth of the school may demand, the said board of directors shall lay a levy not in excess of the amount now fixed by the general high school law on the assessable property within their various districts. And further, the said board of directors shall lay a levy not in excess of the amount fixed by the general high school law on the assessable property represented in their various districts for the teachers salaries and the maintenance of the said Tyler county high school, and they shall, upon the demand of any board of education under the jurisdiction of the Tyler county high school, furnish one-half the necessary expense for the transportation of the students from that district, and the cost of said transportation shall be chargeable jointly to the maintenance fund of the Tyler county high school and the district so demanding transportation. The assessable property of any district or independent district now maintaining its own first class high school in the county of Tyler, state of West Virginia, shall be exempt from taxation by said board of directors.

## CHAPTER 102

(House Bill No. 67—By Mr. Haymrod)

AN ACT to amend and re-enact section one of chapter twenty-nine of the acts of the legislature of West Virginia of the year one thousand, nine hundred and twenty-one, relating to the boundary lines of Grafton independent school district.

[Passed January 30, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Grafton independent school district, 2. <sup>boundaries of.</sup> Repealing inconsistent acts.

*Be it enacted by the Legislature of West Virginia:*

That section one of chapter twenty-nine of the acts of the legislature of West Virginia, of one thousand, nine hundred and twenty-one be amended and re-enacted so as to read as follows:

Section 1. The territory contained within the corporate limits of the City of Grafton as provided for by the existing charter of said city, shall constitute and be an independent school district, and shall be known as Grafton independent school district.

Sec. 2. All acts or parts of acts inconsistent or in conflict herewith are hereby repealed.

## CHAPTER 103

(House Bill No. 72—By Mr. Peters)

AN ACT to validate the high school at Glenwood, in Beaver Pond district, Mercer county, West Virginia, and to authorize its maintenance and support.

[Passed February 12, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Validation of Glenwood high school. 2. How maintained and controlled.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The high school at Glenwood in Beaver Pond district, Mercer county, West Virginia, is hereby in all respects validated and confirmed.

Sec. 2. The board of education of said Beaver Pond district is hereby authorized to maintain and control said high school in the same manner and under the same limitations as are provided for high schools established under section seventy-eight of chapter forty-five of Barnes' code of West Virginia, of one thousand nine hundred and twenty-three.

## CHAPTER 104

(House Bill No. 73—By Mr. Peters)

AN ACT to validate the high school at Brush Fork, in Beaver Pond District, Mercer county, West Virginia, and to authorize its maintenance and support.

[Passed February 12, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Validation of Brush Fork high school. 2. How maintained and controlled.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The high school at Brush Fork, in Beaver Pond district of Mercer county, West Virginia, is hereby in all respects validated and confirmed.

Sec. 2. The board of education of said Beaver Pond district is hereby authorized to maintain and control said high school in the same manner, and under the same limitations as are provided for high schools established under section seventy-eight of chapter forty-five of Barnes' code of West Virginia, of one thousand nine hundred and twenty-three.

## CHAPTER 105

(House Bill No. 93—By Mr. Cooper)

AN ACT to establish a high school for colored pupils in Barkers Ridge district in Wyoming county.

[Passed February 12, 1929; in effect from passage. Approved by the Governor.]

SEC.

1. High school for colored pupils in Barkers Ridge district established. 2. How governed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the board of education of Barkers Ridge district, Wyoming county, is hereby authorized to establish in said district a high school for the use and benefit of the colored pupils therein.

Sec. 2. The high school provided for in section one of this act shall be governed in all respects by the general laws relating to high schools.

## CHAPTER 106

(House Bill No. 94—By Mr. Cooper)

AN ACT to establish a high school for colored pupils in Slab Fork district in Wyoming county.

[Passed February 12, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec. 1. High school for colored pupils in | 2. Slab Fork district established. How governed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the board of education of Slab Fork district, Wyoming county, is hereby authorized to establish in said district, a high school for the use and benefit of the colored pupils therein.

Sec. 2. The high school provided for in section one of this act shall be governed in all respects by the general laws relating to high schools.

## CHAPTER 107

(House Bill No. 230—By Mr. Smith of Doddridge)

AN ACT to provide for the establishing of a county high school in the county of Doddridge.

[Passed February 20, 1929; in effect from passage. Approved by the Governor.]

Sec. 1. County high school established. | 5. Levy for high school. members, how paid.  
 2. Board of directors for; vacancies in. | 6. When districts exempt from levy.  
 3. Board of directors, a body corporate. | 7. Special election concerning; ballots for; when held; election officials, salaries.  
 4. Meetings of board; salaries of mem-

*Be it enacted by the Legislature of West Virginia:*

That a high school be and is hereby established in the county of Doddridge, to be known as the Doddridge county high school.

Section 1. That a high school be and the same is hereby established in and for the county of Doddridge, state of West Virginia, at or near the town of West Union, for such districts in said county as may ratify this act, which shall be known as the Doddridge county high school.

Sec. 2. That the direction and control of said high school shall be in the hands of and by a board of directors, consisting of the presidents of the various districts and independent district boards of education of Doddridge county, except as hereinafter provided, who shall annually, at a regular meeting to be held on the first Tuesday in July of each year, elect one of their number president, and shall at the same time select a competent person not a member of said board of directors as secretary, both of whom shall perform the duties of their respective offices as provided by general law for similar officers of district boards of education, and such other duties as said board of directors may require. A vacancy in either office shall be filled by said board of directors at its first regular meeting after such vacancy occurs. In case of the failure of the board of directors to fill such vacancy within thirty days after it shall occur, it shall be the duty of the county superintendent of free schools of Doddridge county to fill such vacancy by appointment. It is *provided, however*, that in the event this act does not become operative in more than two districts in said county by reason of the vote hereinafter provided to be taken, that then and until one or more additional districts shall adopt this act, said board of directors shall consist of all members of the boards of education of the districts so adopting this act.

Sec. 3. Said board of directors shall be a body corporate and known as board of directors of the Doddridge county high school, and as such may sue and be sued, plead and be impleaded, contract and be contracted with, and shall receive and hold for use of said high school all gifts, grants or devises of property made to the same and shall be deemed the owner of all property belonging to said high school, and shall be liable for all obligations which may legally exist against it.

Sec. 4. A majority of the board of directors shall constitute a quorum for the transaction of business; and in case of a tie vote, the matter in question shall be referred for decision to the county superintendent of free schools of Doddridge county. The said board of directors shall hold regular meetings at the office of the secretary at such times as the board may determine; and special meetings may be held at the same place at the call of the president or of the secretary at the written request of two or more members. All calls for spe-

10 cial meetings shall be in writing and shall be handed to each  
11 member in person or mailed to his proper postoffice address.  
12 The said board of directors shall also hold such statutory meet-  
13 ings as are provided by general law for district boards of edu-  
14 cation. The president of said board of directors shall receive  
15 sixty dollars a year, and the members shall receive three dol-  
16 lars for each meeting attended, not to exceed twelve in any  
17 one year. The secretary shall receive such compensation as the  
18 board of directors may determine. Compensation as herein  
19 provided shall be paid out of the maintenance fund provided  
20 for by said boards of directors, and in the manner provided  
21 by general law for district boards of education.

Sec. 5. For the purpose of purchasing a site and of erect-  
2 ing and equipping such building or buildings as may be needed  
3 for school and dormitory uses only for said high school, said  
4 board of directors is hereby authorized and empowered to lay  
5 a levy, for the years one thousand nine hundred twenty nine,  
6 one thousand nine hundred thirty, one thousand nine hundred  
7 thirty one and one thousand nine hundred thirty two, not to  
8 exceed forty cents on the one hundred dollars valuation of tax-  
9 able property in such districts as shall ratify this act, and for  
10 the maintenance of the said school the board of directors shall  
11 levy annually not to exceed twenty cents on the hundred dol-  
12 lars valuation of taxable property in such districts as shall  
13 ratify this act. It is *provided, however*, that until more than  
14 three districts have ratified this act, that said board of direc-  
15 tors shall establish and maintain the high school provided by  
16 this act in the same manner and by imposing the same levies  
17 as is now provided by law for the maintenance of joint dis-  
18 trict high schools.

Sec. 6. Districts that shall ratify this act and that shall have  
2 heretofore or hereafter established and maintain high schools,  
3 except West Union independent district, shall be exempt  
4 from the levies provided in section five as follows: for a four-  
5 year high school, the entire levy; for a three-year high  
6 school, three-fourths of the levy; for a two-year high school,  
7 one-half of the levy; and for a one-year high school, one-  
8 fourth of the levy; and students from various districts shall  
9 be entitled to attend the said county high school free of  
10 tuition for such number of years as represents the difference  
11 between the length of term provided by their district board

12 of education and the completion of a four-year high school  
13 course.

Sec. 7. This act shall take effect in such districts as may  
2 ratify the same at a special election which shall be called and  
3 conducted by the county court of Doddridge county, in the  
4 manner provided by law for conducting general elections, so  
5 far as applicable, not later than the first of June, in the year  
6 one thousand nine hundred twenty nine. Such vote shall be  
7 by districts, including the independent school district of West  
8 Union. It is *provided, however*, that there shall be no regis-  
9 tration of the voters for said election, but any person other-  
10 wise entitled to vote in this precinct who has not theretofore  
11 been registered therein, may vote, upon making affidavit that  
12 he is entitled to vote at said election. It is also provided that  
13 the ballots used at such election shall have written or printed  
14 thereon, in effect the following:

15  For County High School.

16  Against County High School.

17 And all ballots which contain a mark within the square op-  
18 posite "For county high school" shall be counted as votes for  
19 establishing said high school, and all ballots with a mark in the  
20 square before "Against county high school" shall be counted  
21 as votes against establishing such high school. And if a ma-  
22 jority of the votes in any district of said county shall be for  
23 said high school, this act shall thereupon become and be ef-  
24 fective in said district. It is *further provided* that in any dis-  
25 trict where a majority of the votes cast at said election are  
26 against said high school, that in such district the question of  
27 the ratification or rejection of this act shall be submitted to  
28 the voters therein at any general or primary election to be held  
29 in said district upon a petition presented to the county court  
30 of said county, signed by not less than twenty per cent of the  
31 legal voters therein, as shown by the next preceding registra-  
32 tion of such voters. It is *provided, further*, that the officers at  
33 each precinct conducting said special election shall consist of  
34 three commissioners and two clerks appointed by the county  
35 court of said county, and that each of said officers shall re-  
36 ceive not to exceed the sum of two dollars and fifty cents per  
37 day, and that they shall be paid out of any funds levied or to

38 be levied by said county court available for that purpose.  
 39 And it is also *provided* that at said special election the places  
 40 of voting shall be opened at six o'clock a. m., and closed at six  
 41 o'clock p. m.

## CHAPTER 108

(House Bill No. 303—By Mr. Leonard)

AN ACT to create and establish a district high school in the district of Butler, in the county of Wayne and state of West Virginia, to create and establish a board of directors therefor, to provide revenues for the establishment and maintenance thereof, and authorizing the said board of directors to make contracts for the purchase of sites and erection of buildings thereon for high school purposes and to provide equipment therefor, to employ principals, teachers and other employees necessary for said school, and to locate said district high school at Fort Gay, West Virginia.

[Passed March 7, 1929; in effect July 1, 1929. Approved by the Governor.]

SEC. 1. Butler district high school established; location; how controlled. 2. Board of directors; names and terms; election of; organization of and vacancy in. 3. Board of directors a body corporate. 4. Board of directors, powers of.	5. How school erected and maintained. 6. Qualifications for admission. 7. Levy for. 8. Revenues, how disbursed. 9. Exemption of district from levy for county high school. 10. No referendum required. 11. Effective date. 12. Inconsistent acts repealed.
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*Be it enacted by the Legislature of West Virginia:*

Section 1. That a high school be and the same is hereby  
 2 established in the district of Butler, in the county of Wayne  
 3 and state of West Virginia, and shall be located within the  
 4 corporate limits of the town of Fort Gay, West Virginia,  
 5 which shall hereafter be known as the "Butler district high  
 6 school." Said Butler district high school shall be the prop-  
 7 erty, and under the control and supervision of a board of  
 8 directors of the district of Butler in the county of Wayne  
 9 and state of West Virginia as hereinafter provided, and the  
 10 said Butler district high school shall be subject to and be  
 11 maintained and governed by the general laws of the state of  
 12 West Virginia, so far as they are not in conflict with this  
 13 act.

Sec. 2. That a board of directors for said Butler district high school is hereby created and established, which said board of directors shall be a non-partisan board, that is to say, not more than three of the said board shall belong to the same political party. Upon this act becoming effective, the said board of directors shall consist of Edgar Crabtree, L. M. Wellman, and Ed Smith, as the three Democratic members, and of E. C. McClure, L. W. Borders and L. L. Lycan, as the three republican members, whose term of office shall continue until the thirty-first day of December, one thousand nine hundred and thirty. At the next general election, there shall be elected six members, three of whom receiving the highest number of votes shall be elected for the term of four years commencing on the first day of January, one thousand, nine hundred and thirty-one, and the three receiving the next highest number of votes shall be elected for the term of two years commencing on the first day of January, one thousand, nine hundred and thirty-one, and thereafter at each general election three members shall be chosen for the term of four years, *provided, however*, that not more than three members of the said board of directors shall belong to the same political party. The said board of directors shall choose from their members a president of said board of directors and a secretary thereof. Any vacancy occurring in the membership of said board of directors shall be filled by the remaining members of said board until the next general election.

Sec. 3. Such board of directors shall be a body corporate, and as such may sue and be sued, and shall acquire, receive, hold and dispose of according to the usual forms of law, and the intent of the instrument conferring titles, all gifts, grants or devises made for the use of such high school, and shall be deemed the owner of all property belonging to said high school, and shall be liable for all claims which may be legally assessed against it.

Sec. 4. The said board of directors, as hereinbefore constituted, shall have full power and authority to make such rules and regulations as it may deem necessary for the management, control and maintenance of said high school; to employ necessary principals, teachers and other employees and fix the salaries of same; to establish a graded course of study and grant diplomas upon graduation of pupils, and to per-

8 form such other acts as are necessary and essential to the  
9 welfare and maintenance of said high school; and to provide  
10 equipment therefor.

Sec. 5. The said high school shall be erected, maintained  
2 and conducted in the same manner as provided by general law  
3 for the erection, maintenance and conducting of other district  
4 high schools; and all the provisions of the general law, not in  
5 conflict with this act, shall be applicable to said Butler dis-  
6 trict high school,

Sec. 6. The qualifications for admission to the said Butler  
2 district high school shall be subject to such regulations as  
3 may be prescribed by the said board of directors of said dis-  
4 trict high school.

Sec. 7. For the purpose of establishing such high school  
2 a levy not to exceed thirty cents on each one hundred dollars  
3 assessed valuation on all property in said Butler district for  
4 taxable purposes may be laid; and the board of directors of  
5 said district high school is hereby authorized to lay such levy  
6 for the purpose of acquiring sites and of building and main-  
7 taining said high school, and paying the salaries of principals,  
8 teachers and other employees necessary for said high school.

Sec. 8. All revenues from taxation as provided herein,  
2 shall be collected and disbursed by the sheriff of the said  
3 county of Wayne, in the manner provided by general law.

Sec. 9. After the thirteenth day of June, one thousand  
2 nine hundred and twenty-nine, no property in the school dis-  
3 trict of Butler shall be subject to any levy or levies for the  
4 support of the Wayne county high school under the provisions  
5 of chapter one hundred and five of the acts of the legislature  
6 of West Virginia of one thousand, nine hundred and twenty-  
7 five.

Sec. 10. It shall not be necessary to submit to the voters  
2 of said Butler district the question of the establishment of the  
3 said high school.

Sec. 11. This act shall become effective on the first day of  
2 July, one thousand nine hundred and twenty-nine.

Sec. 12. All acts and parts of acts inconsistent with this  
2 act are hereby repealed.

## CHAPTER 109

(House Bill No. 330—By Mr. Fazenbaker)

**AN ACT** to provide for the establishment of a county high school for colored pupils in the county of Mineral.

[Passed March 2, 1929; in effect ninety days from passage. Approved by the Governor.]

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|--|--|
| <p><b>SEC.</b></p> <p>1. High school for colored pupils in or near Keyser.</p> <p>2. Board of directors, how constituted; powers and duties.</p> | <p>3. Site, buildings and pupils.</p> <p>3-a. Levies for site and maintenance.</p> <p>4. Salaries of board of directors.</p> <p>5. Approval by voters of Mineral County.</p> |
|--|--|

*Be it enacted by the Legislature of West Virginia:*

Section 1. A county high school for colored pupils is hereby established in the county of Mineral, in or near the city of Keyser, upon a site to be selected by the board of directors of said school, which school shall be known as the Mineral county colored high school.

Sec. 2. The presidents of the boards of education of the several school districts in Mineral county, together with the county superintendent of schools of said county, shall constitute the board of directors of said high school, which board shall be a body corporate and as such shall have and exercise all the rights and powers now conferred by law upon district boards of education. The county superintendent shall be ex officio president of said board and a secretary shall be appointed by said board at its first regular meeting in each year, and his duties and compensation shall be prescribed and fixed by the board. Said board shall have full power and authority to make such rules and regulations as it may deem proper and necessary for the management and control of said high school; employ necessary teachers and fix their salaries; establish a graded course of study and grant diplomas upon graduation of pupils and perform such other duties as are essential and necessary to the welfare and maintenance of said school.

Sec. 3. As soon as practicable after the ratification of this act, said board shall acquire by purchase or gift a site for said school in a convenient and suitable location in or immediately adjacent to the city of Keyser and shall erect thereon a suitable building or buildings and establish therein a high

6 school for the colored pupils of high school grade, without cost  
7 for tuition to any such pupil in Mineral county, but said  
8 board may, in its discretion, admit colored pupils of high  
9 school grade from outside said county, upon such terms and  
10 the payment of such tuition fees as it may fix.

Sec. 3-a For the purpose of securing a site, and erecting  
2 and equipping suitable building or buildings thereon, said  
3 board of directors is empowered to lay a levy of not more  
4 than ten cents on each one hundred dollars of taxable prop-  
5 erty in said county for as many years, but not to exceed three  
6 in all, as may be necessary to raise sufficient funds for the  
7 purpose specified above and beginning with the year in which  
8 said high school is ready to open and each subsequent year  
9 thereafter, a levy not to exceed five cents on each one hundred  
10 dollars valuation of the taxable property in said county for a  
11 maintenance building fund and ten cents for a teachers' fund.  
12 Said levies shall be laid at the time and in the manner that  
13 school levies are laid by district boards of education. All  
14 revenue from taxation shall be collected and disbursed by the  
15 sheriff of said county in the manner prescribed by general  
16 law.

Sec. 4. The members of said board of directors, except the  
2 county superintendent, shall be allowed a compensation of five  
3 dollars per day for the services for the time they are actually  
4 employed in transacting the business of said high school,  
5 which shall not exceed twenty days for the year following the  
6 ratification of this act, nor exceed ten days for any subsequent  
7 year. The salary of the secretary shall be fixed by said board  
8 at a sum not to exceed seventy-five dollars per year. Said  
9 per diem and salary shall be paid out of the maintenance fund.

Sec. 5. Before this act shall be in effect, it shall be sub-  
2 mitted to the voters of Mineral county, at the first general  
3 election held following its passage and must receive a major-  
4 ity of the votes cast upon the question. The ballot commis-  
5 sioners of said county shall provide a separate ballot having  
6 thereon the words "For county colored high school" and  
7 "Against county colored high school," and said election shall  
8 be conducted and the result ascertained and declared in the  
9 manner provided by law for general elections.

## CHAPTER 110

(House Bill No. 342—By Mr. Brown of Nicholas)

AN ACT to amend and re-enact section four of chapter forty-eight of the acts of the legislature of West Virginia, one thousand nine hundred and twenty-one, and section ten of chapter one hundred and seven, acts of the legislature of West Virginia, one thousand nine hundred and twenty-five, relating to the establishing, governing and maintaining of the Nicholas county high school in Nicholas county.

[Passed March 7, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

<p>4. Levy for teachers, furniture and supplies.</p> <p>10. Additional levy for teachers' train-</p>	<p>ing department: independent district of Richwood exempted from levies.</p>
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*Be it enacted by the Legislature of West Virginia:*

That section four of chapter forty-eight of the acts of one thousand nine hundred and twenty-one, and section ten of chapter one hundred and seven, acts of one thousand nine hundred and twenty-five, be amended and re-enacted to read as follows:

Section 4. Said board of directors is authorized for each 2 year hereafter to lay a levy not to exceed thirteen cents on 3 the one hundred dollars of taxable property in said county as 4 ascertained by the last preceding assessment for state and 5 county purposes, for the purpose of employing teachers and 6 assistants, procuring necessary furniture, equipment and sup- 7 plies and for any other purposes of carrying on and main- 8 taining said high school and for services, taking care of the 9 high school building and grounds, which levy shall be known 10 as the county high school fund; and said board of directors 11 is likewise authorized to lay an additional levy when needed, 12 not to exceed two and one-half cents on one hundred dollars 13 of taxable property, as aforesaid, for the purpose of erecting 14 suitable buildings to be used in connection with said high 15 school and for maintaining and equipping the same, which 16 said levy shall be known as the high school building fund.

Sec. 10. Said board of directors is hereby authorized to 2 lay an additional levy of not to exceed three cents on the 3 one hundred dollars of taxable property in said county, as 4 ascertained by the last preceding assessment for state and

5 county purposes, for the purpose of procuring teachers,  
6 building, room or accommodation and equipment, furniture,  
7 fixtures and supplies, for the maintenance and continuation  
8 of a normal or teachers' training department as provided for  
9 first-class normal training high schools under the law of this  
10 state. And said board of directors is hereby authorized to  
11 procure such teachers' accommodation, equipment, furniture,  
12 fixtures and supplies, either by contract, and agreement or  
13 by the erection of necessary building or room, and purchase  
14 of equipment, furniture, fixtures and supplies. But the in-  
15 dependent district of Richwood is excepted from said levies,  
16 as provided in section nine of chapter one hundred and thirty-  
17 six, acts of one thousand nine hundred and fifteen.  
18 All acts and parts of acts inconsistent herewith are hereby  
19 repealed.

## CHAPTER 111

(House Bill No. 343—By Mr. Bartlett)

AN ACT to validate the high schools at Sardis and Wallace in  
Sardis district, Harrison county, West Virginia, and to au-  
thorize their maintenance and support.

[Passed March 2, 1929; in effect from passage. Approved by the Governor.]

Sec. 1. High schools of Sardis and Wallace | 2. Board of education of Sardis to  
validated. | maintain and control.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The high schools of Sardis and Wallace in  
2 Sardis district, of Harrison county, West Virginia are here-  
3 by in all respects, validated and confirmed.

Sec. 2. The board of education of said Sardis district is  
2 hereby authorized to maintain and control said high schools  
3 in the same manner, and under the same limitations as are  
4 provided for high schools established under section seventy-  
5 eight, chapter forty-five of Barnes' code of West Virginia of  
6 one thousand nine hundred and twenty-three.

## CHAPTER 112

(House Bill No. 376—By Mr. Rankin)

AN ACT to authorize and permit the board of education of Kingwood district, Preston county, to lay an additional new building and improvement fund levy.

[Passed March 7, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Levy for high school at Tunnelton.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the board of education of Kingwood district of Preston county, be, and the same is hereby authorized and empowered to lay a levy for the years nineteen hundred and thirty, and nineteen hundred and thirty-one, of not exceeding thirty cents on each one hundred dollars assessed valuation of all taxable property in said district each year for the purpose of erecting and equipping a new high school building in the incorporated town of Tunnelton in said district. Said levy to be in addition to all other levies now provided by general law for new building and improvement fund purposes, and to be levied, in like manner as the regular building and improvement fund levy.

## CHAPTER 113

(Senate Bill No. 8—By Mr. Helmick)

AN ACT authorizing the City of Thomas to lay a special levy of thirty-five cents on the one hundred dollars valuation on all real estate and personal property therein for a period of two years for the purpose of completing and extending the water works and system of said city and providing for the collection thereof.

[Passed January 31, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. City of Thomas may lay a special

levy to complete waterworks;  
total amount; how expended.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the City of Thomas, a municipal corporation in the county of Tucker, and state of West Virginia, be and it is hereby authorized through and by its common council to lay a special levy, not exceeding thirty-five cents on the one hundred dollars valuation of all real and personal property therein situate, for a period of two years and for the ensuing years of one thousand nine hundred and twenty-nine and one thousand nine hundred and thirty for the purpose of paying for and completing the water works and water mains of said city and extending the same, the total amount to be raised by said levy not to exceed the sum of seven thousand dollars.

All moneys and funds arising from and derived from said levy shall be used and applied by the common council of said city for said purposes and none other.

## CHAPTER 114

(Senate Bill No. 26—By Mr. Woods)

AN ACT to authorize the county court of Mingo county, West Virginia to lay a special levy of not exceeding ten cents on each one hundred dollars of the assessed valuation of the taxable property in the said county, for the years one thousand nine hundred twenty-nine and one thousand nine hundred thirty to supplement the funds derived from the levy of thirty cents for county purposes, other than roads and bridges, as now authorized by section two, chapter twenty-eight-a, of Barnes' code of one thousand nine hundred twenty-three; and providing for the disbursement of the funds arising from said special levy.

[Passed January 31, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

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|--|---|
| <p>1. County court authorized to lay special levy for two years for county purposes.</p> | <p>2. How laid and collected.<br/>3. How funds used.<br/>4. Inconsistent acts repealed.</p> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Mingo county, West Virginia, at the levy terms thereof held in August, one thou-

3 sand, nine hundred twenty-nine, and in August, one thousand  
 4 nine hundred thirty, be, and it is hereby authorized to lay a  
 5 special levy for each of said years only, of not exceeding ten  
 6 cents on each one hundred dollars of the assessed valuation of  
 7 the taxable property in said county; the funds derived from  
 8 which special levy shall be used for county purposes, other than  
 9 roads and bridges, and shall be in addition to and in supplement  
 10 of the funds derived from the levy of thirty cents now author-  
 11 ized to be levied under the provisions of paragraph "a" of the  
 12 third sub-section of section two, chapter twenty-eight-a, of  
 13 Barnes' code of one thousand nine hundred twenty-three.

Sec. 2. Said special levies shall be made and collected in the  
 2 same manner and at the same time as other levies authorized by  
 3 law, and shall not be laid after the year one thousand nine  
 4 hundred thirty.

Sec. 3. The funds derived from said special levy shall be  
 2 employed by the county court for county purposes, other than  
 3 roads and bridges, either for current expenses for the tax year  
 4 or in discharge of subsisting valid debts on this fund.

Sec. 4. All acts and parts of acts inconsistent herewith are  
 2 hereby repealed, in so far as they apply to the said county of  
 3 Mingo.

## CHAPTER 115

(Senate Bill No. 56—By Mr. Woods)

AN ACT to authorize the county court of Wyoming county to lay  
 a special levy and appropriate other county funds for the  
 purpose of discharging the present indebtedness of the county  
 of Wyoming, and to fix the maximum levies for the general  
 county, county road, and district road funds during the time  
 such special levy is laid.

[Passed February 12, 1929; in effect ninety days from passage. Approved by the  
 Governor.]

SEC.

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|---|---|
| <p>1. Special levy to pay off indebtedness<br/>         of county.</p> <p>2. Application of proceeds.</p> | <p>3. Maximum of other county levies.</p> <p>4. Appropriation of other moneys to<br/>         pay indebtedness of county.</p> |
|---|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. Beginning with the next levy period, until  
2 the present indebtedness of the county of Wyoming is fully  
3 paid off and discharged, or payment thereof provided for, not  
4 however to exceed a period of five years, the county court of  
5 Wyoming county shall have authority to lay, at the same time  
6 and in the same manner in which other levies are laid, a special  
7 levy not to exceed twenty cents on each one hundred dollars of  
8 valuation of the taxable property in the county of Wyoming  
9 as shown by the assessments thereof.

Sec. 2. The funds derived from the special levy laid pur-  
2 suant to section one of this act shall be applied only to the  
3 payment of the present indebtedness of Wyoming county, and  
4 for no other purpose.

Sec. 3. During the years the said special levy shall be laid,  
2 the maximum of certain other levies which the county court is  
3 now authorized by law to lay, shall be, on each one hundred  
4 dollars of the taxable property as follows:

5 For general county fund, twenty-five cents.

6 For county road fund, fifteen cents.

7 For district road funds, ten cents.

Sec. 4. The county court shall appropriate to the payment  
2 of the present indebtedness of the county, any and all moneys,  
3 other than tax moneys, collected from persons, firms or corpora-  
4 tions now indebted to the county.

Sec. 5. All acts or parts of acts inconsistent with the pro-  
2 visions of this act are hereby repealed.

## CHAPTER 116

(Senate Bill No. 122—By Mr. Roberts)

AN ACT to amend and re-enact chapter one hundred and thirty-  
two of the acts of the legislature of one thousand nine hundred  
and twenty-seven, relating to the laying of special road levies  
in the magisterial districts in Marshall county.

[Passed March 1, 1929; in effect January 1, 1930. Approved by the Governor.]

Sec.

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|---|--|
| <ol style="list-style-type: none"> <li>1. Special road levy for bridges and roads; vote upon.</li> <li>2. How roads and bridges to be constructed from special levy; selected; court order, what to contain.</li> </ol> | <ol style="list-style-type: none"> <li>3. Notice of election.</li> <li>4. How election held and result ascertained.</li> <li>5. Form of ballot.</li> <li>6. Duty of court to lay levy; when.</li> <li>7. How funds from levy expended.</li> <li>8. Conflicting acts repealed.</li> </ol> |
|---|--|

*Be it enacted by the Legislature of West Virginia:*

That chapter one hundred and thirty-two of the acts of the legislature of one thousand nine hundred and twenty-seven be amended and re-enacted so as to read as follows:

Section 1. That for the purpose of constructing any road or roads, bridge or bridges, or both roads or bridges, the county court of Marshall county is hereby authorized and empowered to lay a special road levy of not exceeding fifteen cents on each one hundred dollars valuation of property in any magisterial district in the county of Marshall for any year or years during a period of five years, beginning the first day of July, one thousand nine hundred and thirty, when such levy shall be authorized by a vote of three-fifths of all the voters voting upon the question at an election held for that purpose in the manner herein provided in the magisterial district in which the levy is proposed to be laid. The question of laying said special levy may be submitted at a general election or at a special election to be called by the county court.

Sec. 2. Whenever, in the opinion of the county court, any road, or roads, bridge or bridges, or both roads and bridges in any magisterial district, including the territory therein within any municipal corporation, should be constructed from funds derived from a special levy, it shall cause its county road engineer or some competent engineer appointed for that purpose, to make and file in the office of the clerk of the county court a detailed report of the road or roads, or bridge or bridges, to be constructed, showing the location, the extent, and the character, class and quantities of the work proposed to be done and of materials used, and the estimated cost thereof, and shall enter an order which shall contain:

(a) The route or routes of the road or roads, or the location of the bridge or bridges, proposed to be constructed, and the character of the construction and kind and class of work and materials to be used, and the approximate or estimated cost thereof.

18 (b) Valuation of the taxable property of the district as shown  
19 by the last prior assessment thereof.

20 (c) Rate of the proposed levy and the number of years it  
21 is proposed to be laid.

22 (d) Date of election.

23 (e) If a special election, names of commissioners and clerks  
24 for holding same.

25 (f) If a special election, statement that the county court will  
26 meet on the fifth day preceding the election for the purpose of  
27 correcting the registration made at the last preceding election,  
28 and registering qualified voters.

Sec. 3. Notice of said election shall be published and posted  
2 in accordance with section ten of chapter twenty-eight-a,  
3 Barnes' code, one thousand nine hundred and twenty-three, of  
4 West Virginia.

Sec. 4. Said election shall be held, conducted and the result  
2 ascertained in conformity with the general laws of the state in  
3 so far as the same are not in conflict with the provisions of this  
4 act and are applicable.

Sec. 5. The ballot to be used in elections hereunder shall be  
2 substantially as follows:

3 "Shall the county court of Marshall county lay a special  
4 road levy in.....district for the years....., for the  
5 purpose of (here state improvement to be made), according to  
6 an order of the county court made and entered on the.....  
7 day of....., 19.....

8 YES

9 NO

10 Notice to voters: To vote in favor of the levy place an X in  
11 the square after the word 'yes.' To vote against the levy place  
12 an X in the square after the word 'no'."

Sec. 6. If, as shown by the result of any election held here-  
2 under, three-fifths of the total number of voters, voting for and  
3 against the proposed special levy, voted in favor of such levy, it  
4 shall be the duty of the county court to lay the levy authorized  
5 at the rate and for the year or years stated in the order, at the  
6 same time and in the same manner as other district levies are  
7 laid.

Sec. 7. Funds derived from any levy laid hereunder shall be used only for the purposes specified in the order, and for no other purpose or purposes.

Sec. 8. All acts or parts of acts in conflict herewith are hereby repealed.

## CHAPTER 117

(Senate Bill No. 137—By Mr. Wiseman)

AN ACT authorizing a special county bridge levy in Nicholas county, for the purpose of constructing a public bridge across Gauley river at the mouth of Cherry river in said county.

[Passed March 5, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

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|---|--|---|
| 1. Special levy for bridge across Gauley river. |  | 2. Approval of plans: funds for to be kept in separate account. |
|---|--|---|

*Be it Enacted by the Legislature of West Virginia:*

Section 1. That for the purpose of constructing a public bridge across Gauley river at the mouth of Cherry river in Nicholas county, West Virginia, the county court of said county is hereby authorized to lay a special levy on all the taxable property within the said county for the year one thousand nine hundred and twenty-nine, for the year one thousand nine hundred and thirty and for the year one thousand nine hundred and thirty-one not to exceed in either year ten cents on the one hundred dollars valuation of said property as assessed for regular, state, county and district taxation. Said levy shall be called the "special bridge levy," and the funds derived therefrom shall be used for said purpose and for no other purpose.

Sec. 2. Said bridge shall be constructed according to plans and specifications for bridges on state roads to be furnished by the state road commission or body or officer acting in lieu thereof and approved by said county court. And all moneys realized from said special levy shall be collected by the sheriff of said county and shall be kept in a separate fund and a separate account kept of the receipts and disbursements of the same, and may be used and expended in connection with any other funds available for the purpose of constructing said bridge.

## CHAPTER 118

(Senate Bill No. 173—By Mr. Wells, by request)

AN ACT to authorize the county court of Hancock county to lay special levies for general county purposes in the years one thousand nine hundred and twenty-nine and one thousand nine hundred and thirty.

[Passed February 26, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec.

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|--|--------------------------------|
| 1. County court to lay special levy for general county purposes. | 2. Amount of levies.           |
|  | 3. Inconsistent acts repealed. |

*Be it enacted by the Legislature of West Virginia:*

Section 1. That, the county court of Hancock county be, and it is hereby authorized to lay special levies for general county purposes in the years one thousand nine hundred and twenty-nine and one thousand nine hundred and thirty.

Sec. 2. During the year one thousand nine hundred and twenty-nine the special levy shall not exceed the sum of fifteen cents, and during the year one thousand nine hundred and thirty the special levy shall not exceed the sum of six cents on each one hundred dollars of valuation of taxable property in the county of Hancock as shown by the assessments thereof for each respective year, *provided, however*, that if the levy laid hereunder for the year one thousand nine hundred and twenty-nine shall be less than fifteen cents, then the county court may, for the year one thousand nine hundred and thirty in addition to the six cent levy hereinbefore authorize, lay an additional levy equal to the amount by which the levy laid for the year one thousand nine hundred and twenty-nine is less than fifteen cents.

Sec. 3. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

## CHAPTER 119

(House Bill No. 27—By Mr. Gay)

AN ACT to authorize the county court of Logan county, West Virginia, to lay a special levy of not exceeding ten cents on each one hundred dollars of the assessed valuation of the taxable property in said county for each of the years one thousand nine hundred and twenty-nine and one thousand nine hundred and thirty to supplement the funds derived from the levy of thirty cents for county purposes, other than roads and bridges, as now authorized by section two of chapter twenty-eight-a of Barnes' code of one thousand nine hundred and twenty-three, and providing for the disbursement of the funds derived from said levy.

[Passed February 21, 1929; in effect from passage. Became a law without the approval of the Governor.]

**Sec.**

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|--|--|---|
| <p>1. Special levies, for what year laid and how expended.</p> <p>2. How laid and collected.</p> |  | <p>3. Warrants anticipating payment of levies.</p> <p>4. Conflicting acts repealed.</p> |
|--|--|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Logan county, West Virginia, at the levy terms thereof held on the fourth Tuesday in August, one thousand nine hundred and twenty-nine, and on the fourth Tuesday in August one thousand nine hundred and thirty, shall be, and it hereby is, authorized to lay a special levy for each of said two years only, of not exceeding ten cents on each one hundred dollars of the assessed valuation of the taxable property in said county, the funds derived from which special levy shall be used for county purposes other than roads and bridges, and shall be in addition to and supplemental of the fund derived from the levy of thirty cents now authorized to be levied under the provisions of paragraph "(a)" of the third sub-section of section two of chapter twenty-eight-a of Barnes' code of one thousand nine hundred and twenty-three.

Sec. 2. Said special levy shall be laid and collected in the same manner as other levies authorized by law, and shall not be laid after the year one thousand nine hundred and thirty.

Sec. 3. Said county court, insofar as may be necessary to meet the current expenses required by law to be paid for the

3 fiscal years aforesaid, is hereby authorized and empowered  
4 to anticipate the payment of said special levies, and at any  
5 time during the year one thousand nine hundred and twenty-  
6 nine to issue warrants payable on the first day of December,  
7 one thousand nine hundred and twenty-nine, out of said spe-  
8 cial levy authorized for that year, and at any time during the  
9 year one thousand nine hundred and thirty, to issue warrants  
10 payable on the first day of December, one thousand nine hun-  
11 dred and thirty, out of said special levy authorized for that  
12 year; and the warrants thus issued shall, from the time they  
13 are presented to the sheriff and endorsed by him, thereafter,  
14 until the first day of December next after their issuance, bear  
15 interest at the rate of six per centum per annum.

Sec. 4. All acts or parts of acts inconsistent herewith are  
2 hereby repealed, insofar as they apply to the said county of  
3 Logan.

## CHAPTER 120

(House Bill No. 66—By Mr. Haymond)

AN ACT to provide for the construction of bridges in Taylor  
county.

[Passed February 18, 1929; in effect ninety days from passage. Became a law  
without the approval of the Governor.]

Sec.

1. Special levy, period of and purpose: referendum.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Taylor county shall have  
2 the power to lay a special levy for a period of six years of  
3 not more than fifteen cents on every one hundred dollars of  
4 the assessed valuation of the property in said county for each  
5 of said years, to be used exclusively for the construction of  
6 bridges in said county: *provided*, that the power to lay such  
7 levy shall not be effective until the question of laying the  
8 same shall have been submitted by the county court of said  
9 Taylor county to the voters of said county at a general elec-  
10 tion or any special election called for that purpose, and a  
11 majority of the votes cast upon the question of laying such  
12 levy shall have been in favor thereof.

## CHAPTER 121

(House Bill No. 90—By Mr. Calderwood)

AN ACT to authorize and permit the city council of the City of Dunbar to lay a special levy of ten cents on each one hundred dollar valuation of assessable property within the corporate limits of said city for a period of seven years, to provide revenue for the building of a trunk sewer line along what is known as Aaron's Branch in said city, from Park street to the Kanawha river, and also to provide for a twelve-inch sewer for one thousand feet along one of the tributaries of said branch.

[Passed February 20, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

- |  |  |   |
|--|--|---|
| 1. Special levy to build trunk line sewer. |  | 2. Cost of, how paid; right-of-way for. |
|--|--|---|

*Be it enacted by the Legislature of West Virginia:*

That the charter of the City of Dunbar be amended and re-enacted so as to permit the laying of a levy of ten cents on each one hundred dollars valuation of assessable property in said city to read as follows:

Section 1. The council of the City of Dunbar is hereby  
 2 authorized, empowered and directed to lay and assess a  
 3 special levy not to exceed ten cents on each one hundred  
 4 dollars of the assessed valuation of all taxable property in  
 5 the corporate limits of said city of Dunbar for a period of  
 6 seven years, beginning with the year one thousand nine hun-  
 7 dred and twenty-nine, for the purpose of providing funds  
 8 for the construction and building of a main trunk line sewer  
 9 with lateral connections into same in said city along what  
 10 is known as Aaron's Branch from Park street to the Kanawha  
 11 river, and also for the purpose of laying one thousand feet  
 12 of twelve inch sewer up a tributary of Aaron's branch, which  
 13 tributary lies north of Railroad street, which is unnamed but  
 14 which joins Aaron's Branch just north of the point where the  
 15 railroad culvert crosses said branch, and the said council is here-  
 15-a by empowered and directed to proceed as soon as practicable  
 16 after the passage of this act to contract for the erection and  
 17 completion of said sewer line and cause same to be erected

18 and completed with all reasonable speed, said work to be  
19 paid for from the levies herein provided when available.

Sec. 2. And should the council deem it advisable, in con-  
2 tracting for the erection and building of said sewer, issue  
3 drafts for same which shall be negotiable and which shall be  
4 payable as said levies are collected each year for a period of  
5 seven years, they are hereby authorized to issue said drafts  
6 at the completion of said contract and deliver same to the  
7 contractor; but said drafts shall be issued in amounts which  
8 shall equal the money realized from the levy each year and  
9-11 shall be payable during the year that the money is collected.

12 The council shall contract the construction of said trunk  
13 sewer line and laterals to same to the lowest responsible bidder  
14 in same way as paving contracts are provided in the chapter  
15 of the City of Dunbar. The successful bidder shall give bond in  
16 some responsible surety company and also give a maintenance  
17 bond for at least twenty-five per cent of the bid covering a  
18 period of five years.

19 The council shall not contract said trunk line sewer and  
20 lateral until it has first secured through agreement or condem-  
21 nation proceedings a deed for a right-of-way along and through  
22 the private property through which said Aaron's Branch runs.

23 All acts or parts of acts inconsistent herewith are hereby  
24 repealed.

## CHAPTER 122

House Bill No. 140—By Mr. Scott)

AN ACT to authorize the county court of Randolph county for  
a period of three years, to increase the county levy for gen-  
eral county purposes from thirty cents to thirty-five cents  
upon the one hundred dollars, and to reduce the county levy  
for road purposes from twenty-five cents to twenty cents  
upon the one hundred dollars:

[Passed February 6, 1920; in effect ninety days from passage. Became a law without  
the approval of the Governor.]

Sec.

1. Special levy for general county

purposes; reduction of levy for  
road purposes.

*Be it enacted by the Legislature of West Virginia:*

That the county court of Randolph county be, and it is hereby authorized and empowered, for the period of three years, as an emergency, to levy and collect for general county purposes, the sum of thirty-five cents upon the one hundred dollars valuation of the property therein instead of thirty cents as now provided by law, and at the same time reduce the rate of levy for road purposes from twenty-five cents to twenty cents upon the one hundred dollars valuation.

## CHAPTER 123

(House Bill No. 187—By Mr. Smith of Wayne)

AN ACT to provide for the laying, collecting and expenditure of special levies by the county court of Wayne county, West Virginia, for the years one thousand nine hundred and twenty-nine, one thousand nine hundred and thirty, and one thousand nine hundred and thirty-one, on all the taxable property in Ceredo, Butler, and Lincoln magisterial districts of said county for the purpose of constructing, grading, draining and hard surfacing a county road beginning at a point in State highway number eight, near the foot of Bull mountain and on Bull creek, thence down the waters of Tug river and Big Sandy river to State highway number seventy-five, at a point where the Docks creek road intersects with said state highway, near the Darling farm, and providing for the receipt and disbursement of all moneys raised by said levies.

[Passed March 7, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC:

- |  |   |
|--|---|
| 1. Special levy for county road in Lincoln district.       | 5. Plans and advisory committee for road.                                     |
| 2. Special levy for county road in Butler district.        | 6. Funds from general county road levy may be used.                           |
| 3. Special levy for county road in Ceredo district.        | 7. When act as Ceredo district void.  |
| 4. Construction of county road beginning at Cyrus Station. | 8. Who to agree on plans and specifications; special levies as special funds. |

*Be it enacted by the Legislature of West Virginia:*

Section 1. For the purpose of constructing, grading, draining and hard surfacing a county road, beginning at a point where State highway number eight intersects with the county road running down Bull creek near the foot of Bull mountain, Lincoln district, Wayne county, West Virginia; thence down Bull creek; thence down Tug river to Glenhayes; thence to the Butler magisterial district line by way of Nursery Gap, at or near Nursery Gap; in Lincoln magisterial district, county of Wayne, the county court of Wayne county is hereby authorized to lay a special levy on all taxable property within the said Lincoln magisterial district, for the years one thousand nine hundred and twenty-nine, one thousand nine hundred and thirty and one thousand nine hundred and thirty-one, not to exceed twenty-five cents on the one hundred dollar valuation of said property in said magisterial district, as assessed for regular state, county and district taxation; said levy shall be called the "special county road levy of Lincoln magisterial district," and the funds derived therefrom shall be used for said purposes and for no other purpose.

Sec. 2. For the purpose of constructing, grading, draining and hard surfacing the main leading county road, beginning at the point where the main leading county road, described in section one of this act leaves off, that is to say, beginning at the Butler magisterial district-Lincoln magisterial district line, at or near Nursery Gap; thence down Mill creek to State highway number thirty-seven; thence with said State highway number thirty-seven to the foot of the hill on Big Hurricane creek; thence down Big Hurricane creek to Hubbardstown; thence down Big Sandy river through Prichard to the mouth of Elijah's creek; thence up Elijah's creek following generally the present county road, across the hill to Gregstone creek; thence up Gregstone creek to Ben Blair's store; thence to the Ceredo magisterial district line near Centerville, Butler district, Wayne county, West Virginia, the county court of said county is hereby authorized to lay a special levy on all taxable property within said Butler magisterial district, for the years one thousand nine hundred and twenty-nine, one thousand nine hundred and thirty, and one thousand nine

20 hundred and thirty-one, not to exceed twenty-five cents on  
21 the one hundred dollar valuation on said property as assessed  
22 for regular state, county and district taxation; said levy shall  
23 be called "the special county road levy of Butler magisterial  
24 district," and the funds derived therefrom shall be used for  
25 said purposes and for no other purpose.

Sec. 3. For the purpose of constructing, grading, draining  
2 and hard surfacing the main leading county road, beginning  
3 at a point where the main leading county road, described in  
4 section two of this act leaves off, that is to say, beginning at  
5 the Butler magisterial district-Ceredo magisterial district line  
6 near Centerville; thence down White's creek to a concrete  
7 arch bridge near the residence of G. W. Staley, across White's  
8 creek; thence following or near the present county road on  
9 the west side of White's creek down to the crossing across White's  
10 creek at the Phenix farm; thence with or near the present  
11 county road from that point to Cyrus, near the mouth of  
12 White's creek; thence down the Big Sandy river with or near  
13 the present county road, to the mouth of Docks creek; thence  
14 up Docks creek to the point where the said Docks creek road  
15 intersects with State highway number seventy-five at or near  
16 the Darling farm, Ceredo magisterial district, Wayne county,  
17 West Virginia, the county court of said county is hereby  
18 authorized to lay a special levy on all the taxable property  
19 within the said Ceredo magisterial district for the years one  
20 thousand nine hundred and twenty-nine, one thousand nine  
21 hundred and thirty and one thousand nine hundred and  
22 thirty-one, not to exceed thirty cents on the one hundred  
23 dollar valuation of said property as assessed for regular  
24 state, county and district taxation; and the said levy shall  
25 be called "the special county road levy of Ceredo magisterial  
26 district," and the funds derived therefrom shall be used for  
27 said purposes and for no other purpose.

Sec. 4. After the road through Ceredo magisterial district.  
2 as described in section three, shall have been constructed,  
3 there shall be constructed out of funds available for that pur-  
4 pose, a county road from Cyrus station up the Big Sandy  
5 river to the mouth of Gregstone and from the station of  
6 Dunlieth on State road number seventy-five running at or near  
7 the present county road up Buffalo creek to the Buffalo

8 Valley Baptist church on Buffalo creek; said road shall be  
9 constructed out of the funds remaining in the hands of the  
10 county court from the levy above provided or from funds  
11 made available for that purpose by the county court out of  
12 the general county road levy.

Sec. 5. Said road shall be constructed according to such  
2 plans or specifications as the state road commission of the  
3 state of West Virginia and the county court of Wayne county  
4 may decide upon; and there is hereby created by this act an  
5 advisory committee consisting of three men, one from each  
6 magisterial district traversed by said road, to-wit: D. W. Vin-  
7 son, Saltpetre, West Virginia, Lincoln district; Curtis Thomp-  
8 son, Prichard, R. F. D. West Virginia, Butler district, and  
9 W. T. Wallace, Kenova, West Virginia, Ceredo, district, of  
10 which committee the said W. T. Wallace shall act as chair-  
11 man; said advisory committee shall, in all matters affecting  
12 said road, be consulted by the county court of Wayne county  
13 and said advisory committee shall advise with the county  
14 court as to matters of location, surveys, character of road,  
15 drainage, width of road, and type of hard surface, and be-  
16 fore any contract is let for the construction of any part of  
17 said road, said advisory committee shall approve of the let-  
18 ting before the county court shall let the same to contract.

Sec. 6. It is *further provided* that the county court of  
2 Wayne county may set aside and appropriate funds from  
3 the general county road levy and expend the same upon the  
4 construction of the roads herein provided.

Sec. 7. It is *further provided* that should the citizens and  
2 voters of Ceredo magisterial district vote a bond issue to  
3 build roads in Ceredo magisterial district, which includes the  
4 roads described in sections three and four of this act, at any  
5 time before the second Tuesday in August of the year, one  
6 thousand nine hundred and twenty-nine, then this act, so  
7 far as it provides for the laying of a special levy of thirty  
8 cents in Ceredo magisterial district, shall be void but all  
9 other parts of this act shall remain in full force and effect.

Sec. 8. Said road shall be constructed according to such  
2 plans and specifications as the state road commission of the  
3 state of West Virginia, the county court of Wayne county  
4 and the advisory committee may decide upon, and all moneys

5 realized from said special levies shall be kept in special funds  
6 and a separate account of the receipts and disbursements of  
7 the same.

## CHAPTER 124

(Com. Sub. for House Bill No. 210—By Mr. Raine)

AN ACT authorizing the county court of Greenbrier county, West Virginia, to lay a special levy in the year one thousand nine hundred and twenty-nine and the four succeeding years, if required, for the remodeling of and making permanent repairs upon and the building of additions to its present court house and for building, adjacent thereto, a new jail and jailer's residence, or, in the discretion of said county court, for the building of a new court house and such jail and jailer's residence approximately upon the site of its present court house, or, in the discretion of said county court, for acquiring a new site at the county seat of said county and for building thereon a new court house, jail and jailer's residence, and, in any of said events, for furnishing and equipping the same.

[Passed March 6, 1929; in effect from passage. Approved by the Governor.]

<p>Sec. 1. Special court house and jail levy; purposes; how special levy laid</p>		<p>and collected; investment of same; contract for work; special bond election.</p>
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*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Greenbrier county, West Virginia, is hereby empowered and authorized to lay a special levy in the year one thousand nine hundred and twenty-nine and four succeeding years, if required, not to exceed in any one of said years twenty cents on each one hundred dollars valuation of taxable property in said county of Greenbrier for the purpose of the remodeling and fireproofing of and the making of permanent repairs upon and the building suitable and adequate to fireproof additions to its present court house in said county, and for the building, adjacent thereto, of a

11 combined new fireproof jail and jailer's residence, or for the  
12 purposes of the building of a suitable and adequate new court  
13 house and, adjacent thereto, a jail and jailer's residence ap-  
14 proximately upon the site of its present court house, or, in  
15 the discretion of said county court, for acquiring a new site  
16 at the county seat of said county and for building thereon a  
17 new court house, jail and jailer's residence, all of which  
18 buildings shall be of modern fireproof construction, and in  
19 any of said events for adequately furnishing and equipping  
20 the same. Said levy shall be called "a special court house and  
21 jail levy" and the funds derived therefrom shall be used and  
22 expended for the purposes herein specified and no other, and  
23 a separate, account shall be kept of all receipts to and dis-  
24 bursements from said fund.

Sec. 2. Said special levy shall be laid and collected in the  
2 same manner as other levies authorized by law and shall not  
3 be laid after the year one thousand nine hundred and thirty-  
4 three, and the county court shall cumulate the funds derived  
5 from said levy, investing the same in good interest bearing  
6 securities in the meantime, until such time as the accumulated  
7 amount thereof will be sufficient to pay for the work and ex-  
8 penditures hereinbefore specified out of the funds then on  
9 hand together with the levy for the then current year and to  
10 enable the said county court to contract for the said work  
11 and expenditures, respectively, without violating the inhibi-  
12 tion contained in section eight of article ten of the constitu-  
13 tion of this state; at which time the said county court of  
14 Greenbrier county is hereby empowered and authorized to  
15 contract for the work and expenditures, respectively, herein-  
16 before authorized and specified, and the said county court  
17 may in its discretion let to contract said court house construc-  
18 tion separately from the said jail construction, upon the con-  
19 ditions and within the limitations aforesaid; *provided, how-*  
20 *ever,* that should the said county court acquire, hereunder, a  
21 new site and contract for the building thereon a new court  
22 house, jail and jailer's residence, it shall sell the present  
23 court house and site, and, in either event, it shall sell the  
24 present jail and site, and shall apply the proceeds thereof,  
25 *pro tanto,* to the purposes hereinbefore specified.

26 *Provided, further,* that should a special bond election for  
27 the purposes aforesaid be called, held and carried as provided

28 by existing law at any time during the said five year period,  
29 then any fund on hand accumulated from the special court  
30 house and jail levy hereinbefore authorized shall immediately  
31 become available for the purposes aforesaid, and only so  
32 many of the bonds voted at said election shall be sold as may  
33 be necessary, in addition to the amount then on hand raised  
34 by said levy, to complete the projects as provided for in this  
35 act.

Sec. 3. All acts and parts of acts coming within the pur-  
2 view of this act and inconsistent herewith are hereby repealed  
3 insofar as they apply to the said county of Greenbrier.

## CHAPTER 125

(House Bill No. 233—By Mr. Wysong)

AN ACT to authorize the county court of Webster county to lay  
a levy for the purpose of paying the existing indebtedness  
of the Four-H clubs of the said county and to provide for  
the collection of the same.

[Passed February 26, 1929; in effect ninety days from passage. Approved by the  
Governor.]

### SEC.

1. Levy to pay indebtedness of 4-H club.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Webster county be,  
2 and it is hereby authorized and empowered for the year of  
3 one thousand nine hundred and twenty-nine, as an emergency,  
4 to levy and collect for the purpose of paying the existing  
5 indebtedness of the Four-H club, or "Camp Ceasar" located  
6 in said county, the sum of two cents upon the one hundred  
7 dollars valuation of all the property listed for taxation in the  
8 said county and subject thereto, in addition to all other  
9 levies that are now or may be authorized by law to be im-  
10 posed by the said county court.

## CHAPTER 126

(House Bill No. 206—By Mr. Dean)

AN ACT to authorize the county court of Braxton county, West Virginia, to lay a special levy of not exceeding fifteen cents on each one hundred dollars of the assessed valuation of the taxable property in the said county for the years one thousand nine hundred and twenty-nine, one thousand nine hundred and thirty and one thousand nine hundred and thirty-one and one thousand nine hundred and thirty-two, to supplement the funds derived from the levy of thirty cents for county purposes, other than roads and bridges, as now authorized by section two, chapter twenty-eight-a of Barnes' code of one thousand nine hundred and twenty-three, and providing for the disbursement of the funds arising from said special levy.

[Passed March 8, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.		2. How laid and collected.
1. Special levy for existing indebtedness.		3. How expended.
		4. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Braxton county, West Virginia, at the levy terms thereof held in August, one thousand nine hundred and twenty-nine, in August, one thousand nine hundred and thirty, in August, one thousand nine hundred and thirty-one, and in August, one thousand nine hundred and thirty-two, be and is hereby authorized to lay a special levy for each of said years only of not exceeding fifteen cents on each one hundred dollars of the assessed valuation of the taxable property in said county; the fund derived from which special levy shall be used for the payment of the valid existing indebtedness of the county, represented by drafts drawn on the county fund, and shall be in addition to and in supplement of the funds derived from the levy of thirty cents now authorized to be levied under the provisions of paragraph *a* of the third subsection of section two, chapter twenty-eight-a of Barnes code of one thousand nine hundred and twenty-three.

Sec. 2. Said special levy shall be made and collected in the same manner and at the same time as other levies authorized by law and shall not be made after the year one thousand nine hundred and thirty-two.

Sec. 3. The fund derived from said special levy, shall be employed by the county court for the payment of the valid existing indebtedness of the county represented by drafts drawn on the general county fund and shall not be used for any other purposes.

Sec. 4. All acts and parts of acts inconsistent herewith are hereby repealed insofar as they apply to the said county of Braxton.

## CHAPTER 127

(House Bill No. 367—By Mr. Kyle)

AN ACT to amend and re-enact sections eight, nine and ten of chapter one hundred and thirty of the acts of the legislature, regular session of one thousand nine hundred and twenty-seven relating to the construction of a court house for Harrison county.

[Passed March 1, 1929; in effect from passage. Approved by the Governor.]

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| <p>SEC. 8. Bond issue for construction and equipment of court house; before levy laid, committee to be appointed.</p> | <p>9. Members of committee to serve without charge; powers of committee.</p> <p>10. Act to prevail over any conflicting general statute.</p> |
|---|--|

*Be it enacted by the Legislature of West Virginia:*

That sections eight, nine and ten of chapter one hundred and thirty of the acts of the legislature of one thousand nine hundred and twenty-seven be amended and re-enacted to read as follows:

Section 8. Notwithstanding that levies for raising funds may be laid and collected under section seven of said chapter, the county court of Harrison county may issue bonds within the maximum amount prescribed in said chapter, when authorized as therein provided, to raise sufficient funds to complete the construction and equipment of a court house for said county. No levy authorized by section seven of

8 said chapter shall be made for the purposes therein specified  
9 unless the resolution or order of the county court authorizing  
10 and laying the same shall provide a committee to be made  
11 up in the manner prescribed in said chapter, which com-  
12 mittee shall have the same powers and shall exercise the  
13 same duties with respect to the construction and equipment  
14 of the court house by funds raised by levies as are conferred  
15 and imposed upon the committee in the event that the court  
16 house shall be constructed and paid for by moneys raised by  
17 the issuance and sale of bonds under said chapter.

Sec. 9. The members of the committee shall serve without  
2 charge or compensation. The county court shall not employ  
3 any person as architect, supervisor or inspector, and shall  
4 not pay out or disburse any funds raised by the sale of bonds  
5 or by levies as in said chapter provided, in employing an archi-  
6 tect to make plans, drawings, designs and specifications for  
7 such court house, or in purchasing plans, drawings, designs  
8 and specifications for such court house, except with the assent  
9 and upon the approval of a majority of the members of the  
10 committee provided for in said chapter.

Sec. 10. This act shall not operate as a repeal of any  
2 general statute, but in all cases wherein it conflicts with any  
3 general statute, the provisions of this act, for the objects  
4 and purposes thereof shall prevail.

## CHAPTER 128

(House Bill No. 308—By Mr. Wysong)

AN ACT to authorize the county court of Webster county, for  
a period of three years, to increase the county levy for gen-  
eral county purposes from thirty cents to forty cents upon  
the one hundred dollars and to reduce the county levy for  
road purposes from twenty-five cents to fifteen cents upon  
the one hundred dollars:

[Passed March 9, 1929; in effect ninety days from passage. Approved by the  
Governor.]

SEC.

1. County court may increase county and reduce road levies.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Webster county be, and it is hereby authorized and empowered, for the period of three years, as an emergency, to levy and collect for general county purposes the sum of forty cents upon the one hundred dollars valuation of the property therein instead of thirty cents as now provided by law and at the same time reduce the rate of levy for road purposes from twenty-five cents to fifteen cents upon the one hundred dollars valuation.

## CHAPTER 129

(Senate Bill No. 88—By Mr. Hallanan)

AN ACT to validate all the proceedings authorizing the issuance of bonds by the county court of McDowell county, West Virginia, for and on behalf of the magisterial district of Sandy River district, McDowell county, West Virginia, in the sum of one hundred and fifty thousand dollars authorized at an election held in said district on the sixth day of November, one thousand nine hundred and twenty-eight by a vote of three-fifths of the voters voting at said election upon the question of issuing said bonds, for the purpose of constructing buildings, making repairs and permanent improvement of county and district public roads located and situated in said Sandy river district; and to authorize the execution and sale of said bonds, and to provide a tax to pay the same and the interest thereon.

[Passed February 5, 1929; in effect from Passage. Approved by the Governor.]

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| <p>Sec.<br/>1. Certain bonds of Sandy river mag-<br/>isterial district validated.</p> | <p>3. Form of bonds.<br/>4. Levy to pay bonds.</p> |
| <p>2. How executed and delivered; when</p>  | <p>payable.</p>                                    |

*Be it enacted by the Legislature of West Virginia:*

Section 1. All proceedings authorizing the issuance of bonds of the county courtr of McDowell county, West Virginia, for and on behalf of the magisterial district of Sandy river therein, in the amount of one hundred fifty thousand dollars authorized at an election held in said Sandy river district on

6 the sixth day of November, one thousand nine hundred and  
7 twenty-eight, by a vote of three-fifths of the voters of said dis-  
8 trict voting upon the question of issuing said bonds, for the  
9 purpose of constructing building, making repairs and the per-  
10 manent improvement of certain county and district roads  
11 located and situated in said Sandy river district; and provid-  
12 ing for the payment of same and the interest thereon, are here-  
13 by in all respects validated and confirmed.

Sec. 2. The county court of McDowell county, state of West  
2 Virginia, is hereby authorized to execute, make sale of and de-  
3 liver bonds described in section one of this act for and on  
4 behalf of the magisterial district of Sandy river, McDowell  
5 county, West Virginia, pursuant to the proceedings validated  
6 and confirmed by section one of this act, which said bonds shall  
7 bear date as of the first day of January, one thousand nine  
8 hundred and twenty-nine, and bear interest at the rate of five  
9 *per centum* per annum, payable semi-annually, and be of the  
10 denomination of one thousand dollars each and numbered from  
11 one to one hundred and fifty, both inclusive, and payable as  
12 follows:

13 Numbers one to five, both inclusive, shall be payable on Jan-  
14 uary first, one thousand nine hundred and thirty.

15 Numbers six to ten, both inclusive, shall be payable on Jan-  
16 uary first, one thousand nine hundred and thirty-one.

17 Numbers eleven to fifteen, both inclusive, shall be payable on  
18 January first, one thousand nine hundred and thirty-two.

19 Numbers sixteen to twenty, both inclusive, shall be payable  
20 on January first, one thousand nine hundred and thirty-  
21 three.

22 Numbers twenty-one to twenty-five, both inclusive, shall be  
23 payable on January first, one thousand nine hundred and  
24 thirty-four.

25 Numbers twenty-six to thirty, both inclusive, shall be pay-  
26 able on January first, one thousand nine hundred and thirty-  
27 five.

28 Numbers thirty-one to thirty-five, both inclusive, shall be  
29 payable on January first, one thousand nine hundred and  
30 thirty-six.

31 Numbers thirty-six to forty, both inclusive, shall be payable  
32 on January first, one thousand nine hundred and thirty-seven.

33 Numbers forty-one to forty-five, both inclusive, shall be pay-

34 able on January first, one thousand nine hundred and thirty-  
35 eight.

36 Numbers forty-six to fifty, both inclusive, shall be payable on  
37 January first, one thousand nine hundred and thirty-nine.

38 Numbers fifty-one to fifty-five, both inclusive, shall be pay-  
39 able on January rst, one thousand nine hundred and forty.

40 Numbers fifty-six to sixty, both inclusive, shall be payable on  
41 January rst, one thousand nine hundred and forty-one.

42 Numbers sixty-one to sixty-five, both inclusive, shall be pay-  
43 able on January first, one thousand nine hundred and forty-  
44 two.

45 Numbers sixty-six to seventy, both inclusive, shall be pay-  
46 able on January first, one thousand nine hundred and forty-  
47 three.

48 Numbers seventy-one to seventy-five, both inclusive, shall be  
49 payable on January first, one thousand nine hundred and forty-  
50 four.

51 Numbers seventy-six to eighty, both inclusive, shall be pay-  
52 able on January first, one thousand nine hundred and forty-  
53 five.

54 Numbers eighty-one to eighty-five, both inclusive, shall be  
55 payable on January first, one thousand nine hundred and forty-  
56 six.

57 Numbers eighty-six to ninety, both inclusive, shall be pay-  
58 able on January first, one thousand nine hundred and forty-  
59 seven.

60 Numbers ninety-one to ninety-five, both inclusive. shall be  
61 payable on January first, one thousand nine hundred and forty-  
62 eight.

63 Numbers ninety-six to one hundred, both inclusive, shall be  
64 payable on January first, one thousand nine hundred and forty-  
65 nine.

66 Numbers one hundred and one to one hundred and five, both  
67 inclusive, shall be payable on January first, one thousand nine  
68 hundred and fifty.

69 Numbers one hundred and six to one hundred and ten,  
70 both inclusive, shall be payable on January first, one thousand  
71 nine hundred and fifty-one.

72 Numbers one hundred and eleven to one hundred and fifteen,  
73 both inclusive, shall be payable on January first, one thousand  
74 nine hundred and fifty-two.

75 Numbers one hundred and sixteen to one hundred and  
76 twenty, both inclusive, shall be payable on January first, one  
77 thousand nine hundred and fifty-three.

78 Numbers one hundred and twenty-one to one hundred and  
79 twenty-five, both inclusive, shall be payable on January first,  
80 one thousand nine hundred and fifty-four.

81 Numbers one hundred and twenty-six to one hundred and  
82 thirty, both inclusive, shall be payable on January first, one  
83 thousand nine hundred and fifty-five.

84 Numbers one hundred and thirty-one to one hundred and  
85 thirty-five, both inclusive, shall be payable on January first,  
86 one thousand nine hundred and fifty-six.

87 Numbers one hundred and thirty-six to one hundred and  
88 forty, both inclusive, shall be payable on January first, one  
89 thousand nine hundred and fifty-seven.

90 Numbers one hundred and forty-one to one hundred and  
91 forty-five, both inclusive, shall be payable on January first, one  
92 thousand nine hundred and fifty-eight.

93 Numbers one hundred and forty-six to one hundred and fifty,  
94 both inclusive, shall be payable on January first, one thousand  
95 nine hundred and fifty-nine.

Sec. 3. Each of the bonds herein authorized and the cou-  
2 pons to be attached thereto, shall be substantially in words and  
3 figures as follows, to-wit:

4 UNITED STATES OF AMERICA

5 STATE OF WEST VIRGINIA,

6 SANDY RIVER DISTRICT,

7 MCDOWELL COUNTY.

8 Numbers one to one hundred and fifty. One thousand dollars.  
9 ROAD IMPROVEMENT BOND.

10 *Know all Men by These Presents:* That the county court of  
11 McDowell county, West Virginia, a corporation created and  
12 existing under and by virtue of the laws of the state of West  
13 Virginia, for and on behalf of the magisterial district of Sandy  
14 river, for value received, acknowledges itself to be indebted  
15 and promises to pay the bearer the sum of

16 ONE THOUSAND DOLLARS

17 in gold coin of the United States of America, of the present  
18 standard of weight and fineness, on the first day of January,  
19 nineteen....., together with interest thereon at the rate  
20 of five per centum per annum, payable semi-annually, on the

21 first day of January and July of each year, both the principal  
 22 and interest thereon being payable to the bearer at the office of  
 23 the treasurer of the state of West Virginia, or at the McDowell  
 24 County National bank, Welch, West Virginia, or at the Hanover  
 25 National bank of New York city, in the state of New York, at  
 26 the option of the holder hereof, said interest being payable only  
 27 upon presentation and surrender of the annexed coupons as  
 28 they severally become due and payable.

29 This bond is one of a series of one hundred and fifty bonds,  
 30 aggregating the sum of one hundred and fifty thousand dol-  
 31 lars, numbered from one to one hundred and fifty inclusive of  
 32 like date, tenor and effect except as to number and maturity  
 33 issued for the purpose of providing funds for the cost of im-  
 34 proving certain roads in Sandy River district, McDowell  
 35 county, West Virginia.

36 The holder of this bond shall present the same for payment  
 37 upon the date and at the place, or any of the places fixed for  
 38 payment thereof, and failure to so present such bond shall cause  
 39 the interest thereon to cease, and no interest thereon shall be  
 40 paid after this bond becomes due, unless the same be presented  
 41 and no interest coupon shall bear interest after the date fixed  
 42 for presentation thereof, unless presented.

43 This bond is issued pursuant to and in conformity with the  
 44 constitution and laws of the state of West Virginia.

45 In testimony whereof, the county court of McDowell county,  
 46 state of West Virginia, has caused this bond to be signed by its  
 47 president and countersigned by its clerk with the seal of the  
 48 said court thereto affixed, and has caused the annexed interest  
 49 coupons to be executed with the engraved fac-simile signatures  
 50 of the said president and clerk and this bond is dated the first  
 51 day of January, in the year one thousand nine hundred and  
 52 twenty-nine.

53  
 54 COUNTY COURT OF McDOWELL  
 COUNTY, WEST VIRGINIA.  
 55 (Seal) By.....  
 56 Countersigned President.  
 57 .....Clerk  
 58 Coupon

59 Numbers one to one hundred and fifty. Twenty-five dollars.  
 60 On the first day of January (July) one thousand nine hun-  
 61 dred and twenty-nine (to one thousand nine hundred and fifty-

62 nine) the county court of McDowell county, West Virginia, will  
 63 pay to the bearer twenty-five dollars at the office of the treas-  
 64 urer of the state of West Virginia, or McDowell County Na-  
 65 tional bank, of Welch, West Virginia or the Hanover National  
 66 bank of New York city, in the state of New York, at the option  
 67 of the holder hereof, it being six months' interest on its road  
 68 bond of Sandy River district, of said county, number.....  
 69 for one thousand dollars dated January one, one thousand nine  
 70 hundred and twenty-nine.

71

COUNTY COURT OF MCDOWELL

72

COUNTY, WEST VIRGINIA.

73

By.....

74 Countersigned :

President.

75

.....Clerk.

Sec. 4. The county court of McDowell county, West Vir-  
 2 ginia, shall annually impose and collect a tax in excess of all  
 3 other taxes, on all property, subject to taxation in said Sandy  
 4 River district, sufficient in amount to pay annually the interest  
 5 on the bonds herein authorized, and the principal thereof at  
 6 maturity.

## CHAPTER 130

(Senate Bill No. 184—By Mr. White of Wood)

AN ACT to validate certain bonds of the City of Parkersburg and the issuance thereof and the several maturities thereof, which bonds are known and designated as "Water Works Improvement and Extension Bonds," are in the aggregate amount of four hundred thousand dollars and were authorized at an election held in said city on the twenty-eighth day of June, one thousand nine hundred and twenty-seven, by the affirmative votes of three-fifths of the voters voting at said election, and which bonds are dated as of July first, one thousand nine hundred and twenty-seven.

[Passed February 21, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Waterworks improvement and extension bonds validated.

2. Form of bond and interest coupons.  
3. Denominations and maturities.

Be it enacted by the Legislature of West Virginia:

Section 1. The bonds of the City of Parkersburg, and the 2 issuance thereof, in the aggregate amount of four hundred 3 thousand dollars, together with the several maturities thereof, 4 which bonds are known and designated as "Water Works Im- 5 provement and Extension Bonds" and were authorized at an 6 election held in the City of Parkersburg on the twenty-eighth 7 day of June, one thousand nine hundred and twenty-seven, by 8 the affirmative votes of three fifths of the voters voting at said 9 election, and which bonds are dated as of July first, one thou- 10 sand nine hundred and twenty-seven, are hereby in all respects 11 validated and confirmed.

Sec. 2. The bonds hereby validated and confirmed and the 2 coupons attached thereto, are each substantially in the words 3 and figures as follows, to-wit:

4 UNITED STATES OF AMERICA  
5 No..... STATE OF WEST VIRGINIA \$.....  
6 CITY OF PARKERSBURG .....  
7 5%  
8 WATER WORKS IMPROVEMENT AND EXTENSION  
9 BOND.

10 City Series Q.

11 .....

12 KNOW ALL MEN BY THESE PRESENTS: That the City  
13 of Parkersburg in the county of Wood, state of West Virginia,  
14 a municipal corporation created and existing under and by vir-  
15 tue of the laws of the state of West Virginia, for value received,  
16 acknowledges itself indebted to, and promises to pay to, the  
17 bearer the sum of ..... Dollars (\$.....)  
18 in lawful money of the United States of America, on the first  
19 day of July, 19....., together with interest thereon at the rate  
20 of five *per centum per annum*, payable semi-annually on the first  
21 day of January and first day of July in each year, both princi-  
22 pal and interest being payable to bearer at the office of the treas-  
23 urer of the state of West Virginia, in the City of Charleston,  
24 or at the National City Bank of New York in the city and

25 state of New York (at the option of the holder), said interest  
26 being payable only upon presentation and surrender of the an-  
27 nexed coupons as they severally become due and payable.

28 This bond is one of a series of four hundred and three bonds  
29 numbered from one to four hundred and three, consecutively,  
30 of which three hundred and ninety-seven to-wit: Nos. one to  
31 thirty-one inclusive, thirty-three to fifty-four inclusive, fifty-six  
32 to seventy-nine inclusive, eighty-one to two hundred and fifty-  
33 five inclusive, two hundred and fifty-seven to three hundred and  
34 five inclusive, and three hundred and seven to four hundred  
35 and ninety-two inclusive, are for one thousand dollars each,  
36 and six to-wit: Nos. thirty-two, fifty-five, eighty, two hundred  
37 and fifty-six, three hundred and six and four hundred and three  
38 are for five hundred dollars each, aggregating four hundred  
39 thousand dollars, all being of like date, tenor and effect except  
40 as to amount, number and maturity, issued for the purpose of  
41 providing funds for water works improvement and extension in  
42 said City of Parkersburg, the last of which bonds is payable  
43 twenty-six years after date, that is, on July first one thousand  
44 nine hundred and fifty-three.

45 The holder of this bond shall present the same for payment  
46 on the date and at one of the places fixed for payment thereof,  
47 and failure to so present said bond shall cause the interest there-  
48 on to cease, and no interest thereon shall be paid after this bond  
49 becomes due unless the same be presented as herein provided,  
50 and no interest coupon attached hereto shall bear interest after  
51 the date fixed for the presentation thereof unless so presented.

52 It is certified that this bond is authorized by, and is issued in  
53 conformity with, the requirements of the constitution and  
54 statutes of the state of West Virginia, and by virtue of a cer-  
55 tain ordinance of the City of Parkersburg, enacted on the sev-  
56 enteenth day of May, one thousand nine hundred and twenty-  
57 seven, and pursuant to an election held in said city, whereat  
58 more than three-fifths of the voters voting on said ordinance  
59 voted in favor of the ratification thereof and the issuance of  
60 this bond.

61 IN TESTIMONY WHEREOF the City of Parkersburg has  
62 caused this bond to be signed by its mayor, and countersigned  
63 by its clerk, with the corporate seal of said City of Parkersburg  
64 hereto affixed, and has caused the annexed interest coupons to

65 be executed with the engraved *fac simile* signatures of the said  
66 mayor and city clerk. This bond is issued and dated as of the  
67 first day of July, one thousand nine hundred and twenty-seven.

68 THE CITY OF PARKERSBURG,  
69 By .....  
70 Mayor

71 Countersigned :  
72 Clerk of the City of Parkersburg.  
73 Coupon No. .... \$.....  
74 Series Q.

75 On the first day of ....., 19....., The City of Parkers-  
76 burg, a municipal corporation in Wood county, West Virginia,  
77 will pay to the bearer \$..... at the office of the treasurer  
78 of the state of West Virginia, in the City of Charleston, West  
79 Virginia, or at the National City Bank of New York in the City  
80 and state of New York (at the option of the holder), it being  
81 six months interest on its Water Works Improvement and Ex-  
82 tension Bond No..... for \$..... issued on behalf of  
83 said City of Parkersburg and dated as of July first, one thou-  
84 sand nine hundred and twenty-seven.

85 .....  
86 City Clerk. Mayor.

Sec. 3. The schedule of maturities of said bonds, which  
2 schedule is hereby validated and confirmed, is as follows:  
3 Five thousand dollars par value shall mature three years  
4 after date of issue;  
5 Six thousand dollars par value shall mature four years after  
6 date of issue;  
7 Ten thousand dollars par value shall mature five years after  
8 date of issue;  
9 Ten thousand five hundred dollars par value shall mature six  
10 years after date of issue;  
11 Eleven thousand dollars par value shall mature seven years  
12 after date of issue;  
13 Eleven thousand five hundred dollars par value shall mature  
14 eight years after date of issue;  
15 Twelve thousand dollars par value shall mature nine years  
16 after date of issue;  
17 Twelve thousand five hundred dollars par value shall mature  
18 ten years after date of issue;

- 19 Thirteen thousand dollars par value shall mature eleven years  
20 after date of issue;
- 21 Fourteen thousand dollars par value shall mature twelve  
22 years after date of issue;
- 23 Fifteen thousand dollars par value shall mature thirteen  
24 years after date of issue;
- 25 Sixteen thousand dollars par value shall mature fourteen  
26 years after date of issue;
- 27 Seventeen thousand dollars par value shall mature fifteen  
28 years after date of issue;
- 29 Eighteen thousand dollars par value shall mature sixteen  
30 years after date of issue;
- 31 Nineteen thousand dollars par value shall mature seventeen  
32 years after date of issue;
- 33 Twenty thousand dollars par value shall mature eighteen  
34 years after date of issue;
- 35 Twenty-one thousand dollars par value shall mature nineteen  
36 years after date of issue;
- 37 Twenty-two thousand five hundred dollars par value shall  
38 mature twenty years after date of issue;
- 39 Twenty-four thousand dollars par value shall mature twenty-  
40 one years after date of issue;
- 41 Twenty-five thousand five hundred dollars par value shall  
42 mature twenty-two years after date of issue;
- 43 Twenty-seven thousand dollars par value shall mature  
44 twenty-three years after date of issue;
- 45 Twenty-eight thousand dollars par value shall mature  
46 twenty-four years after date of issue;
- 47 Twenty-nine thousand dollars par value shall mature twenty-  
48 five years after date of issue;
- 49 Twelve thousand five hundred dollars par value shall mature  
50 twenty-six years after date of issue.

## CHAPTER 131

(Senate Bill No. 19—By Mr. Miller)

AN ACT to amend and re-enact section one-*g* and lines seven, eight and nine of section one-*h* of chapter fifty-one of the acts of the legislature of the state of West Virginia, regular session, one thousand nine hundred and twenty-seven, relating to the time of holding regular terms of circuit court in the seventh and twenty-fourth judicial circuits.

[Passed February 8, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC. 1-*g*. Terms of court in seventh circuit. 1-*h*. Terms of court in twenty-fourth circuit.

*Be it enacted by the Legislature of West Virginia:*

That section one-*g* and lines seven, eight and nine of section one-*h* of chapter fifty-one of the acts of the legislature of the state of West Virginia, in regular session, one thousand nine hundred and twenty-seven, relating to the time of holding regular terms of circuit court in the seventh and twenty-fourth judicial circuits, be amended and re-enacted so as to read as follows:

Section 1-*g*. Seventh circuit. For the county of Logan on the 2 second Monday in January, the first Monday in April, the first 3 Monday in July, and the first Monday in October.

Sec. 1-*h*. For the county of Wayne on the first Monday in 2 March, the first Monday in June, the first Monday in Septem- 3 ber, and the first Monday in December.

## CHAPTER 132

(House Bill No. 2—By Mr. Wysong)

AN ACT fixing the time of holding circuit courts in the fifth and fourteenth judicial circuits of West Virginia, as established by chapter eighty-four of the acts of the legislature of West Virginia, session of one thousand nine hundred and twenty-one, and by chapter fifty-one of the acts of the legislature of West Virginia, session of one thousand nine

hundred and twenty-seven, and amending and re-enacting sections one-*e*, one-*m*, and one-*n* of chapter one hundred and twelve of Barnes' code of one thousand nine hundred and twenty-three.

[Passed February 28, 1929; in effect May 1, 1929. Approved by the Governor.]

SEC.

- |  |   |
|--|---|
| 1. Time of holding courts in fifth judicial circuit. | 2. Time of holding courts in fourteenth judicial circuit. |
|  | 3. Repealing conflicting acts.                            |

*Be it enacted by the Legislature of West Virginia:*

That sections one-*e*, one-*m* and one-*n* of chapter one hundred and twelve of Barnes' code of one thousand nine hundred and twenty-three be amended and re-enacted so as to read as follows:

Section 1. On and after January one, one thousand nine hundred and twenty-nine, the terms of the several circuit courts for the fifth judicial circuit of West Virginia shall commence and be held as follows:

For the county of Roane on the third Monday in January, the third Monday in May and the third Monday in September; for the county of Jackson on the first Monday in April, the first Tuesday in August and the second Tuesday in November; for the county of Calhoun on the third Tuesday in April, the third Tuesday in August and the third Tuesday in November; for the county of Mason on the first Monday in January, the first Monday in May and the first Monday in September.

Sec. 2. On and after January first, nineteen hundred and twenty-nine, the terms of the several circuit courts for the fourteenth judicial circuit of West Virginia, shall commence and be held as follows:

For the county of Webster, the first Tuesday in January, the first Tuesday in May and the first Tuesday in September.

For the county of Braxton, the second Tuesday in March, the second Tuesday in July and the third Tuesday in November.

For the county of Clay, the fourth Tuesday in January, the fourth Tuesday in May and the Fourth Tuesday in September.

For the county of Gilmer, the third Tuesday in February, the third Tuesday in June and the third Tuesday in October.

Sec. 3. All acts and parts of acts inconsistent herewith are hereby expressly repealed.

## CHAPTER 133

(House Bill No. 14—By Mr. Hutchinson)

AN ACT to amend and re-enact sub-section one-*b* of section one, of chapter one hundred and twelve, of the code of West Virginia, relating to the holding of terms of the circuit court in the second judicial circuit, as amended and re-enacted by chapter eighty-four of the acts of the legislature for the year one thousand nine hundred and twenty-one.

[Passed February 14, 1929; in effect from passage. Approved by the Governor.]

SEC.

1-b. Time of holding courts in the second judicial circuit.

*Be it enacted by the Legislature of West Virginia:*

That sub-section one-*b* of section one, of chapter one hundred and twelve of the code of West Virginia, relating to the holding of terms of the circuit court in the second judicial circuit be amended and re-enacted so as to read as follows:

Section 1-*b*. For the county of Marshall, on the second  
2 Tuesday in February, the second Tuesday in June, and the  
3 second Tuesday in October.

4 For the county of Tyler on the third Tuesday in March, the  
5 third Tuesday in July, and the third Tuesday in November.

6 For the county of Wetzel the first Tuesday in January, the  
7 first Tuesday in May, and the first Tuesday in September.

## CHAPTER 134

(House Bill No. 298—By Mr. Kennedy)

AN ACT to amend and re-enact section one-*h* of chapter one hundred and twelve of Barnes' West Virginia code of one thousand nine hundred and twenty-three, as amended by chapter fifty-one of the acts of the legislature of West Virginia of the session of one thousand nine hundred and twenty-seven, relating to the time of holding terms of the circuit court in the eighth judicial circuit.

[Passed March 8, 1929; in effect from passage. Approved by the Governor.]

SEC.

1-h. Terms of court, eighth judicial circuit.

*Be it enacted by the Legislature of West Virginia:*

That section one-h of chapter one hundred and twelve of Barnes' West Virginia code of one thousand nine hundred and twenty-three, as amended by chapter fifty-one of the acts of the legislature of West Virginia of the session of one thousand nine hundred and twenty-seven be amended and re-enacted so as to read as follows:

Section 1-h. Eighth circuit. For the county of Mingo, on  
2 the first Monday in January, the first Monday in May, and  
3 the first Monday in October.

4 For the county of McDowell on the second Monday in  
5 March, the second Monday in June, the first Monday in  
6 September and the first Monday in December.

## CHAPTER 135

(House Bill No. 375—By Mr. Beuhring)

AN ACT to amend and re-enact section eight of chapter one hundred and sixty-eight of the acts of the legislature of West Virginia, second extraordinary session, nineteen hundred and twenty, and session nineteen hundred and twenty-one, relating to the time of holding terms of court of the domestic relations court of Cabell county, West Virginia.

[Passed March 9, 1929; in effect from passage. Approved by the Governor.]

SEC.

8. Terms of domestic relations court.

*Be it enacted by the Legislature of West Virginia:*

That section eight, of chapter one hundred and sixty-eight of the acts of the legislature of West Virginia, second extraordinary session, nineteen hundred and twenty, and session, nineteen hundred and twenty-one be amended and re-enacted so as to read as follows:

Section 8. There shall be regularly continued and held  
2 four terms of the domestic relations court of Cabell county,  
3 West Virginia, each year, beginning respectively on the

4 second Monday in April, first Monday in June, September  
5 and December.

6 All acts or parts of acts in conflict herewith are hereby  
7 repealed.

## CHAPTER 136

(Senate Bill No. 34—By Mr. Smith of Lincoln)

AN ACT to fix the salary of the clerk of the circuit court of Lincoln  
county.

[Passed February 21, 1929; in effect ninety days from passage. Became a law  
without the approval of the Governor.]

Sec. Lincoln county; effective date of  
1. Salary of clerk of circuit court of act.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the salary of the office of clerk of the circuit  
2 court of Lincoln county be and the same is hereby fixed at  
3 the sum of two thousand dollars per year, which salary shall  
4 be paid monthly out of the treasury of Lincoln county by the  
5 county court of said county in the same manner that the salaries  
6 of other county officers are paid. This act shall take effect on  
7 the first day of July, one thousand, nine hundred and twenty-  
8 nine.

9 All acts or parts of acts inconsistent herewith are hereby  
10 repealed.

## CHAPTER 137

(Senate Bill No. 35—By Mr. Watkins)

AN ACT providing compensation for the prosecuting attorney of  
Taylor county, for services as attorney for the boards of edu-  
cation of Taylor county.

[Passed February 26, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

1. Compensation for prosecuting attorney for boards of education.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The prosecuting attorney of Taylor county shall receive for his services as attorney for the boards of education of Taylor county, as now or hereafter provided by law, the sum of six hundred dollars annually, payable monthly out of the county treasury.

## CHAPTER 138

(Senate Bill No. 50—By Mr. Hugus, by request)

AN ACT authorizing the board of commissioners of Ohio county to pay the prosecuting attorney of Ohio county additional compensation for services rendered the boards of education of Ohio county.

[Passed February 21, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

1. Compensation of prosecuting attorney as attorney to boards of education.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of commissioners of Ohio county may pay to the prosecuting attorney of Ohio county for services as attorney to the boards of education of Ohio county, including the Wheeling Independent School District Board, as now or hereafter constituted by law, a sum not to exceed one thousand and two hundred dollars annually, payable out of the county treasury, on and after January one, one thousand nine hundred and thirty.

## CHAPTER 139

(Senate Bill No. 70—By Mr. Smith of Marion, by request)

AN ACT to authorize the county court of Marion county to pay to the judge of the sixteenth judicial circuit, in addition to the amount paid out of the state treasury, such sum as may be just and proper, not to exceed twenty-two hundred dollars *per annum*.

[Passed February 21, 1929; in effect from passage. Approved by the Governor.]

SEC.

1. County court may pay additional compensation to circuit court judge.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Marion county is hereby authorized to pay to the judge of the sixteenth judicial circuit, in addition to the amount allowed and paid out of the state treasury, such sum as may be just and proper, not to exceed the sum of twenty-two hundred dollars *per annum*, which allowance may commence with the first day of January, one thousand nine hundred and twenty-nine.

All acts and parts of acts coming within the purview of this act and inconsistent herewith are hereby repealed.

## CHAPTER 140

(Senate Bill No. 185—By Mr. Davis of Ritchie)

AN ACT to empower the judge of the circuit court of the third judicial circuit to employ a competent stenographer, defining duties, and providing for the manner of payment.

[Passed February 26, 1929; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Circuit court of third judicial circuit may employ competent stenographer by order entered of

record.  
2. Compensation, amount and how paid.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The circuit court of the third judicial circuit, or the judge thereof in vacation, is hereby empowered and authorized to employ and appoint a competent stenographer to aid

4 the said judge in the performance of all his official duties. Said  
5 appointment and employment of such stenographer may be  
6 made by the judge of said court by an order entered of record  
7 in said court, and said stenographer so appointed shall hold  
8 office during the pleasure of the court.

Sec. 2. The compensation of such stenographer shall be fixed  
2 by said judge at such sum as he shall deem proper, not to exceed  
3 one hundred dollars per month, of which said compensation an  
4 amount not to exceed fifty dollars per month shall be paid out  
5 of the state treasury as provided by section one-d of chapter  
6 eleven of the code, an amount not to exceed twenty-five dollars  
7 per month by the county court of Ritchie county, an amount  
8 not to exceed fifteen dollars per month by the county court of  
9 Doddridge county, and an amount not to exceed ten dollars  
10 per month by the county court of Pleasants county.

## CHAPTER 141

(Senate Bill No. 247—By Mr. Mathews, by request) ●

AN ACT providing for the compensation to be paid to the sheriff,  
assessor and circuit clerk of Pocahontas county.

[Passed March 5, 1929; in effect ninety days from passage. Approved by the  
Governor.]

SEC.

- |                              |  |
|------------------------------|--|
| 1. Compensation of sheriff.  | 3. Compensation of clerk of circuit court. |
| 2. Compensation of assessor. |  |

*Be it enacted by the Legislature of West Virginia:*

Section 1. Beginning on the first day of January, one thou-  
2 sand nine hundred and thirty-three, the compensation of the  
3 sheriff of Pocahontas county shall be two thousand four hun-  
4 dred dollars *per annum*, payable out of the county treasury in  
5 equal monthly instalments.

Sec. 2. Beginning on the first day of January, one thousand  
2 nine hundred and thirty-three, the compensation of the assessor  
3 of Pocahontas county shall be twelve hundred dollars *per an-*  
4 *num*, payable out of the county treasury in equal monthly in-  
5 stalments.

Sec. 3. Beginning on the first day of January, one thousand  
 2 nine hundred and thirty-three, the compensation of the clerk  
 3 of the circuit court of Pocahontas county, shall be one thousand  
 4 eight hundred dollars *per annum*, payable out of the county  
 5 treasury in equal monthly instalments.

6 All acts and parts of acts inconsistent herewith are hereby  
 7 repealed.

## CHAPTER 142

(House Bill No. 19—By Mr. Rice)

AN ACT authorizing the county courts of Berkeley, Jefferson and  
 Morgan counties, or any of them, to pay additional compen-  
 sation to the judge of the twenty-third judicial circuit, and  
 repealing all acts in conflict therewith.

[Passed February 14, 1929; in effect ninety days from passage. Approved by the  
 Governor.]

SEC.

1. Authorizing county court of Berke- ley, Jefferson or Morgan county	to pay additional compensation to circuit judge.
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*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Berkeley county, the  
 2 county court of Jefferson county and the county court of  
 3 Morgan county, be, and they are, each hereby authorized to  
 4 pay out of their respective county treasuries, to the judge  
 5 of the twenty-third judicial circuit of West Virginia, in addi-  
 6 tion to the amount now or hereafter allowed to said judge out  
 7 of the state treasury, as compensation or salary, an amount  
 8 not to exceed twenty-five hundred dollars per annum, pay-  
 9 able in monthly installments, *provided*, the total additional  
 10 compensation allowed by said county courts, or any of them,  
 11 shall not exceed twenty-five hundred dollars per annum.

12 All acts and parts of acts inconsistent herewith are hereby  
 13 repealed.

## CHAPTER 143

(House Bill No. 122—By Mr. Deuley)

AN ACT to fix the salary of the clerk of the circuit court of Brooke county.

[Passed February 13, 1929; in effect from passage. Approved by the Governor.]  
SEC.

1. Salary of clerk of circuit court of Brooke county.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That after the first day of January, one thousand nine-hundred and thirty-one, the county court of Brooke county shall allow and pay to the clerk of the circuit court of said county an annual salary of one thousand eight hundred dollars, which salary shall be paid monthly in the same manner as the salary of other county officers are paid.

## CHAPTER 144

(House Bill No. 210—By Mr. Farnsworth, by request)

AN ACT to provide a stenographer for the prosecuting attorney of Lewis county, and for payment therefor.

[Passed March 8, 1929; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. When prosecuting attorney may employ stenographer; how paid.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That by and with the consent and approval of the county court of Lewis county, the prosecuting attorney of said county is hereby authorized to employ a competent stenographer to assist him in his official duties as such prosecuting attorney, and in addition to the other provisions made by law for the support of his office he may be allowed and paid by said court, out of the county treasury of said county, a sum to be fixed by said court but not to exceed seventy-five dollars per month for such stenographic assistance.

## CHAPTER 145

(House Bill No. 222—By Mr. Smith of Preston)

AN ACT authorizing the prosecuting attorney of Preston county to employ a stenographer.

[Passed March 2, 1929; in effect from passage. Approved by the Governor.]

Sec.

1. Stenographer for prosecuting attorney; salary. how paid.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the prosecuting attorney of Preston  
2 county may employ a stenographer for his office, at a salary  
3 of not more than one thousand two hundred dollars annually,  
4 to be paid in monthly payments, out of the county treasury,  
5 in the same manner that all other county officials are paid.

## CHAPTER 146

(House Bill No. 226—By Mr. Kyle)

AN ACT to amend and re-enact section four of chapter twenty-seven of the acts of the legislature of one thousand nine hundred and nine, as amended and re-enacted by section four of chapter twelve of the acts of the legislature of one thousand nine hundred and nineteen, relating to the salary of the judge of the criminal court of Harrison county.

[Passed February 20, 1929; in effect from passage. Approved by the Governor.]

Sec.

1. Salary judge of criminal court, how paid.

*Be it enacted by the Legislature of West Virginia:*

That section four of chapter twenty-seven of the acts of the legislature of one thousand nine hundred and nine as amended and re-enacted by section four of chapter twelve of the acts of the legislature of one thousand nine hundred and nineteen, be amended and re-enacted so as to read as follows:

Section 4. The judge of the said criminal court shall receive for his services a salary of five thousand dollars per  
2 year; said amount to be fixed and paid from year to year by  
3 the county court of said county, out of the funds of said  
4 county, as provided by statute.

## CHAPTER 147

(House Bill No. 248—By Mr. Davis)

AN ACT providing stenographic or other clerical assistance to the prosecuting attorney of Hampshire county.

[Passed February 14, 1929; in effect from passage. Approved by the Governor.]

SEC.

1. County court to pay for stenographic assistant for prosecuting attorney.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Hampshire county is hereby authorized to provide pay for stenographic or other clerical assistance to the prosecuting attorney of said county, but the said county court shall not expend for said purpose an amount exceeding fifty dollars per month, the same to be paid out of the county funds of said county.

All acts or parts of acts inconsistent herewith are hereby repealed.

## CHAPTER 148

(House Bill No. 354—By Mr. Hays)

AN ACT to provide an assistant for the prosecuting attorney of Calhoun county.

[Passed March 7, 1929; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. County court to employ assistant prosecuting attorney; salary.

*Be it enacted by the legislature of West Virginia*

That the county court of Calhoun county be required to employ an assistant for the prosecuting attorney of said county as follows:

Section 1. That the county court of Calhoun county shall employ one assistant for the prosecuting attorney of said county, in addition to the other provisions made by law for the support of the office of said prosecuting attorney, at a compensation of twenty-five dollars a month, payable out of the county treasury upon the order of the court as other salaries

7 are paid; such assistant to be named by the prosecuting attorney.  
8

## CHAPTER 149

(House Bill No. 379—By Mr. Cole)

AN ACT authorizing the county courts of Mercer and Wyoming counties to pay to the judge of the ninth judicial circuit additional compensation and to repeal all acts in conflict therewith.

[Passed March 8, 1929; in effect ninety days from passage. Approved by the Governor.]

Sec. 1. Additional compensation for judge      2. <sup>ninth judicial circuit.</sup> Conflicting acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That in addition to all other compensation now provided by law, the judge of the ninth judicial circuit of this state shall be paid by the county court of Mercer county the sum of one thousand and two hundred dollars *per annum*, and by the county court of Wyoming county the sum of eight hundred dollars per annum, which shall be paid by said county courts to the said judge in monthly installments.

Sec. 2 All acts and parts of acts in conflict herewith are hereby repealed.

## CHAPTER 150

(House Bill No. 382—By Mr. Davis)

AN ACT relating to the salary of the clerk of the circuit court of Hampshire county.

[Passed March 8, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

Sec. 1. Salary of circuit court clerk; when effective.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The annual salary of the clerk of the circuit court of Hampshire county shall not be less than one thousand dollars nor more than thirteen hundred dollars. The county

4 court of Hampshire county is hereby authorized to fix said  
5 salary, but not at a greater nor less sum than herein specified.

6 This act shall become effective at the expiration of the  
7 term of office of the present incumbent.

8 All acts or parts of acts inconsistent herewith are here-  
9 by repealed.

## CHAPTER 151

(Senate Bill No. 188—By Mr. Helmick)

AN ACT to amend and re-enact section one of chapter one hundred and twenty-six of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-five, relating to clerical assistance, prosecuting attorney, of Tucker county.

[Passed February 21, 1929; in effect from passage. Became a law without the approval of the Governor.]

<p>Sec. 1. Compensation to prosecuting attorney for stenographic and clerical</p>		<p>2. Duties of <sup>help.</sup> stenographic or clerical helper.</p>
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*Be it enacted by the Legislature of West Virginia:*

That section one of chapter one hundred and twenty-six of the acts of the legislature of one thousand nine hundred and twenty-five be amended and re-enacted to read as follows: relating to the employment of stenographic and clerical help of the prosecuting attorney of Tucker county, fixing the salary and defining the duties to be performed.

Section 1. The prosecuting attorney of Tucker county shall be paid the sum of six hundred dollars per year for the employment of stenographic and clerical help out of the county fund, in addition to his salary as provided in section forty-four of chapter one hundred and thirty-seven of the code of West Virginia, Barnes' edition of one thousand nine hundred and twenty-three.

Sec. 2. That such stenographic or clerical help of the prosecuting attorney of Tucker county shall attend all meetings of the county board of health, mental hygiene, applications for mothers' pensions, board of equalization and review, take and transcribe such evidence as may be adduced and take and keep the minutes of said meetings in a loose leaf record book to be kept in the office of the clerk of the county court.

## CHAPTER 152

(House Bill No. 390—By Mr. Reed)

AN ACT to provide for the appointment of two deputy sheriffs in Clay county and to fix their salaries.

[Passed March 8, 1929; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Additional deputy sheriffs; salaries.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The sheriff of Clay county shall appoint such  
2 deputy sheriffs as he may need, not exceeding two in number.  
3 Each deputy sheriff so appointed shall receive a salary of one  
4 thousand seven hundred dollars per annum. The salaries of  
5 all such deputy sheriffs shall be paid out of the county treasury  
6 of said county of Clay, from and after the first day of July  
7 one thousand nine hundred and twenty-nine.

8 All acts or parts of acts, in conflict with the provisions  
9 of this act are hereby repealed.

## CHAPTER 153

(House Bill No. 399—By Mr. Meredith)

AN ACT providing stenographic or other clerical assistance to the prosecuting attorney of Roane county.

[Passed March 7, 1929; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. County court to provide pay for stenographic or other clerical	assistance for prosecuting at- torney.
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*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Roane county is hereby  
2 authorized to provide pay for stenographic or other clerical as-  
3 sistance to the prosecuting attorney of said county but the  
4 said county court shall not expend for said purpose an amount  
5 exceeding fifty dollars per month, the same to be paid out of  
6 the county funds of said county. All acts and parts of acts  
7 inconsistent herewith are hereby repealed.

## CHAPTER 154

(House Bill No. 403—By Mr. Stephens, by request)

AN ACT fixing the salaries of clerk of the circuit court, sheriff, clerk of the county court and prosecuting attorney of Putnam county.

[Passed March 6, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

1. Salaries of certain county officials; when act effective.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The annual compensation of the clerk of the 2 circuit court of Putnam county shall be eighteen hundred 3 dollars; the sheriff of Putnam county shall be twenty-two 4 hundred dollars; the clerk of the county court of Putnam 5 county shall be twenty-two hundred dollars, and the prose- 6 cuting attorney of Putnam county shall be fifteen hundred 7 dollars, to be paid out of the county treasury in monthly in- 8 stallments on the last day of each month.

9 *Provided, however,* that the provisions of this act shall 10 not become effective during the term of any present incum- 11 bent of either of said offices.

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## CHAPTER 155

(Senate Bill No. 36—By Mr. Watkins)

AN ACT to provide for the construction of bridges in Taylor county.

[Passed February 10, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. County court may lay special levy for six years for construction of bridges; vote on question of laying levy.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Taylor county shall have the 2 power to lay a special levy for a period of six years of not more 3 than fifteen cents on every one hundred dollars of the assessed 4 valuation of the property in said county for each of said years,

5 to be used exclusively for the construction of bridges in said  
6 county; *provided*, that the power to lay such levy shall not be  
7 effective until the question of laying the same shall have been  
8 submitted by the county court of said Taylyor county to the  
9 voters of said county at a general election or any special elec-  
10 tion called for that purpose, and a majority of the votes cast  
11 upon the question of laying such levy shall have been in favor  
12 thereof.

## CHAPTER 156

(Senate Bill No. 37—By Mr. Watkins)

AN ACT to amend and re-enact section sixteen of chapter seventy-  
nine of the acts of the legislature of West Virginia for the  
year one thousand nine hundred and thirteen, and to require  
publication of financial statement by the City of Grafton.

[Passed February 12, 1929; in effect ninety days from passage. Approved by the  
Governor.]

Sec.

16. Publication of financial statement of cities by commission.

*Be it enacted by the Legislature of West Virginia:*

That section sixteen of chapter seventy-nine of the acts of the  
legislature of West Virginia for the year one thousand nine hun-  
dred and thirteen be amended and re-enacted so as to read as  
follows:

Section 16. The commission shall cause to be published in  
2 two newspapers of opposite politics, if there be such published  
3 therein, at a compensation not to exceed the rate provided by  
4 law for like publications, for one issue, a sworn statement of  
5 the financial condition of said city. Said statement shall be  
6 prepared by the commission every twelve months, and shall be  
7 so printed and published within sixty days after the close of  
8 each fiscal year.

## CHAPTER 157

(Senate Bill No. 49—By Mr. Hugus)

AN ACT to amend and re-enact chapter one hundred and forty-eight, of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-seven authorizing the board of commissioners of the county of Ohio to pay such sums to the City of Wheeling as have been or will be assessed against the owners of the property abutting on that portion of McColloch street in the City of Wheeling between Sixteenth and Baker streets, and that portion of Baker street in the City of Wheeling between McColloch street and the southerly end of the Baker street bridge over Wheeling creek, on account of paving done by the said City of Wheeling during the year one thousand nine hundred and twenty-four and one thousand nine hundred and twenty-five and to authorize said board from time to time to join with the City of Wheeling in the maintenance, repair and paving of the above named portions of said streets.

[Passed February 4, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Board of commissioners may pay City of Wheeling for certain street paving.	2. Board may contribute to maintenance of paving on certain streets.
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*Be it enacted by the Legislature of West Virginia:*

That chapter one hundred and forty-eight of the acts of the legislature of one thousand nine hundred and twenty-seven be amended and re-enacted to read as follows:

Section 1. That the board of commissioners of the county of Ohio be, and hereby is, authorized to assume and take over and to pay such sums to the City of Wheeling that are now due or may hereafter become due for the amounts of the assessments laid against the owners of property, abutting on that portion of McColloch street in the City of Wheeling between Sixteenth and Baker streets and on that portion of Baker street in the said city between McColloch street and the southerly end of the Baker street bridge over Wheeling creek, on account of the paving of said streets between said points during the year one thousand nine hundred and twenty-four and one thousand nine hundred and twenty-five. Said boards, as said as-

13 sessments become due may, out of the general county road  
14 funds, pay to the City of Wheeling each year, a part or all of  
15 such assessment and said property owners shall be credited with  
16 the amounts so paid by the said board.

Sec. 2. That the board of commissioners of the county of  
2 Ohio may, from time to time, contract with the said City of  
3 Wheeling whereby said board may contribute to the City of  
4 Wheeling for the upkeep, maintenance, repair, resurfacing or  
5 repaving of that portion of McColloch street between Sixteenth  
6 and Baker streets in said city and that portion of Baker street  
7 in the said city between McColloch street and the southerly  
8 end of the Baker street bridge over Wheeling creek, and said  
9 board may assume all or part of the assessments which ordi-  
10 narily would be laid against the property owners along said  
11 portions of said streets, and said board may pay out of the gen-  
12 eral county road fund, such sum or sums as may be necessary  
13 to pay such part of the cost of the maintenance, repair, resur-  
14 facing or repaving of the said portion of McColloch street be-  
15 tween Sixteenth and Baker streets and the said portion of Baker  
16 street in the said city between McColloch street and the south-  
17 erly end of the Baker street bridge over Wheeling creek, includ-  
18 ing that part of the assessments against the abutting property  
19 owners, as said board may agree with said city to pay; *pro-*  
20 *vided, however,* that nothing herein contained shall relieve the  
21 City of Wheeling or the abutting property owners of its or  
22 their obligations except, if, as, when, and to such extent as the  
23 said board of commissioners may agree to assume and pay.

24 All acts and parts of acts inconsistent herewith are hereby  
25 repealed.

## CHAPTER 158

(Senate Bill No. 83—By Mr. Hugus)

AN ACT to amend and re-enact section thirteen of chapter one hundred and twenty of the acts of the regular session of one thousand nine hundred and twenty-five of the legislature, relating to the intermediate court of Ohio county.

[Passed February 26, 1929; in effect from passage. Became a law without the approval of the Governor.]

SEC.

13. Grand juries; how summoned and duties; jury commissioners of circuit court to serve intermediate court; how jurors selected.

*Be it enacted by the Legislature of West Virginia:*

That section thirteen of chapter one hundred and twenty of the acts of the legislature of one thousand nine hundred and twenty-five, relating to the intermediate court of Ohio county, be amended and re-enacted so as to read as follows:

Section 13. The said court shall impanel a grand jury at each 2 term thereof, and said court, or the judge thereof, may in his 3 discretion, order a grand jury to be drawn or summoned to at- 4 tend at any special or adjourned term of said court, or at any 5 other time when in his opinion it is proper to do so. Such 6 grand jury may consider any offense against the laws committed 7 within said court of Ohio, whether the same shall have been 8 committed before the next preceding term of the court or not, 9 and whether the accused shall have been held for trial or not 10 prior to the next preceding regular term, and all the provisions 11 of chapter one hundred and fifty-seven of the code of West 12 Virginia, in regard to grand juries in the circuit court shall 13 apply, so far as applicable, to grand juries in said intermediate 14 court. The grand and petit juries serving in said court shall 15 be chosen and impaneled in the same manner as they are chosen 16 and impaneled by law in the circuit court, and shall receive the 17 same compensation as said jurors in the circuit court.

18 *Provided*, that there shall not be a separate set of jury com- 19 missioners for said court, and the jury commissioners of the 20 circuit court of Ohio county and their successors in office at 21 the time this act becomes effective, shall be *ex-officio* the jury 22 commissioners of this court, and all petit juries for this court 23 shall be selected from the same list and box from which petit 24 jurors for the said circuit court are selected and in the manner 25 prescribed by chapter one hundred and sixteen of the code; 26 except, first, that said jury commissioners are hereby author- 27 ized, for the purpose of selecting a sufficient number of jurors 28 for said circuit court and for this court, to add to said list and 29 box the names of not more than one thousand additional in-

30 habitants of the county, duly qualified for jury service and not  
 31 exempted as in said chapter provided; and, except, secondly,  
 32 so far as otherwise provided in section twenty-one of chapter  
 33 one hundred and sixteen of the code.

## CHAPTER 159

(Senate Bill No. 155—By Mr. Hugus)

AN ACT to amend and re-enact section three of chapter one hundred and eighty-three of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one, relating to the powers and duties of the board of commissioners of the county of Ohio.

[Passed February 21, 1929; in effect from passage. Approved by the Governor.]

SEC.

3. Transfer of unexpended balances of bond issues; special levy to pay interest and create a sinking fund.

*Be it enacted by the Legislature of West Virginia:*

That section three of chapter one hundred and eighty-three of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one be amended and re-enacted to read as follows:

Section 3. The proceeds of any such bond issue or of any such special road fund levy authorized by sections one, two and four of this act shall constitute a fund to be expended by the board of commissioners of the county of Ohio for the purpose specified in the order of said board under which the vote on any such bond issue was taken or under which any such special road fund levy was laid and for no other purpose; *provided*, that if upon the completion of any project authorized under this act and the payment of all bonds, interest or other claims on account of or against said project there remains a balance in the fund for said project, said balance shall be transferred to the general county road fund of Ohio county. After the issuance and sale by the said board of commissioners of any such bonds as are mentioned herein, the said board shall each year thereafter lay a levy on all of the taxable property in the county, in

16 addition to all other levies authorized by law, sufficient to pay  
17 the annual interest on said bonds and to create a sinking fund  
18 sufficient to pay said bonds when due.

19 All acts and parts of acts inconsistent herewith are hereby  
20 repealed.

## CHAPTER 160

(House Bill No. 111—By Mr. Haymond)

AN ACT to amend chapter seventy-nine of the acts of the West Virginia legislature for the year one thousand nine hundred and thirteen by adding thereto section seven-a., limiting the power of the City of Grafton to sell, mortgage or otherwise encumber certain public property of said city.

[Passed March 2, 1929; in effect ninety days from passage. Approved by the Governor.]

SEC. 7-a. No sale or mortgage of water works or electric light plants of		city without a vote of the people; sale of worn machinery, etc., per- mitted.
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*Be it enacted by the Legislature of West Virginia:*

That chapter seventy-nine of the acts of the West Virginia legislature for the year one thousand nine hundred and thirteen be amended by adding thereto the following section:

Section 7-a. But the commission shall not grant, sell, convey, transfer, let, assign, pledge, mortgage, charge or otherwise alien or encumber the water works plant, or the electric light plant belonging to said city, or any part thereof, without first submitting the question of the proposed disposition of such property to a vote of the people of the City of Grafton at a general election, or at a special election called for that purpose, and the majority of the votes at such election shall have been cast in favor of the proposed disposition of said property; *provided, however,* that said commission shall have the power to sell, exchange, or otherwise dispose of any worn or obsolete machinery, equipment or parts thereof, belonging to such water works plant or electric light plant for the purpose of replacing the same with new and more modern equipment, or making proper repair thereof.

## CHAPTER 161

(House Bill No. 174—By Mr. Cusack)

AN ACT for the establishment and maintenance of a county law library for Wetzel county.

[Passed February 12, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

Sec.

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|---|--|
| <p>1. County court may establish and provide books and furniture for law library.</p> | <p>2. Board of directors for; duties of.<br/>3. Penalty for removing or damaging books.<br/>4. Inconsistent acts repealed.</p> |
|---|--|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Wetzel county, be, 2 and the same is hereby authorized to establish and maintain 3 a law library for the use of the judges of all courts of said 4 county, all public officers of said county or sub-divisions 5 thereof or municipalities therein, and for the use of such 6 other persons and upon such terms as may be designated 7 and prescribed by the Wetzel county library board herein- 8 after created, and said county court shall provide and main- 9 tain a suitable room or rooms for the same, with all neces- 10 sary conveniences, furniture and fixtures. The said county 11 court shall provide suitable law books for said library and 12 any and all purchases of law books for the office of the 13 prosecuting attorney of this county, or for the office of the 14 judge of the circuit court heretofore made are hereby rati- 15 fied and confirmed and such books shall be considered a part 16 of said library. Said county court may acquire books for 17 said library by purchase, rental, lease, gift, donation, or 18 loan.

Sec. 2. There is hereby created a board of directors of 2 said library consisting of three members, of which one shall 3 be the judge of the circuit court of Wetzel county, a second 4 to be appointed by the county court, and the third shall be 5 appointed by the Wetzel county bar association, the last two 6 of whom shall hold office during the will and pleasure of the 7 respective appointing powers, and said board shall be a body 8 corporate under the name and style of "Wetzel County Law 9 Library Board," and as such may sue and be sued. Said 10 Wetzel County Law Library Board shall have control of 11 said library and shall adopt and publish suitable rules and

12 regulations governing its use not inconsistent with this act  
13 and shall have the power from time to time to repeal, alter,  
14 revise and amend said rules and regulations. The books for  
15 said library shall be purchased, rented or leased by the  
16 county court of Wetzel county upon the order and requis-  
17 tion of said board but no contract of rental or lease shall  
18 extend more than five years from the date thereof.

Sec. 3. Except in case of fire or some like necessity it  
2 shall be unlawful for anyone to remove any book or books  
3 forming a part of said library from the room or rooms desig-  
4 nated for their location or injure, deface or destroy any of  
5 them. Any person violating this section shall be guilty of a  
6 misdemeanor and upon conviction thereof before a justice of  
7 the peace or in the circuit court of Wetzel county shall be  
8 fined not less than ten dollars and may be imprisoned in the  
9 county jail not more than sixty days.

Sec. 4. All acts and parts of acts in conflict herewith  
2 are hereby repealed.

## CHAPTER 162

(House Bill No. 188—By Mr. Deuley)

AN ACT to authorize the county court of Brooke county, West  
Virginia, a corporation, to remove the remains of the dead  
interred in a certain lot of land, to be acquired by the said  
county court, near Short creek, Buffalo district, Brooke  
county, West Virginia, and to reinter the same in a suitable  
cemetery, as near as possible thereto.

*Whereas*, the state road commission of the State of West Vir-  
ginia, is constructing, widening, straightening, grading and alter-  
ing a certain state road, known as state route number two, at a  
point in Buffalo district, Brooke county, West Virginia, near  
what is known as Short creek, West Virginia, and

*Whereas*, it becomes the duty, pursuant to section thirty-one,  
chapter forty-three of Barnes' one thousand nine hundred and  
twenty-three code of West Virginia, as amended by chapter six,  
of the one thousand nine hundred and twenty-three acts of the

legislature of the state of West Virginia, for the county court of Brooke county, West Virginia, a corporation to acquire the necessary right-of-ways for the said constructing, widening, straightening, grading and altering, and

*Whereas*, on the said right-of-way to be acquired as aforesaid, which said property is now recorded in the name of W. J. and Nellie R. Ashcraft, there are graves of at least three or more persons, and it thus becomes necessary to remove the bodies therefrom, therefore

[Passed February 13, 1929; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Removal of dead interred on state

road right-of-way; publication of notice concerning.

*Be it enacted by the Legislature of West Virginia:*

That it shall be lawful for the said county court, after having acquired title to the above described right-of-way, to disinter the remains of the dead, buried therein, provided the said county court properly reinter the said remains, together with all marks and monuments pertaining thereto, in a suitable cemetery to be selected by the said county court, after having given notice for four consecutive weeks in a newspaper published in Brooke county, West Virginia, of its intention to remove the said remains and after having given due consideration to the wishes of any of the decedents relatives.

## CHAPTER 163

(House Bill No. 221—By Mr. Buzzerd)

AN ACT to empower the county court of Morgan county to appropriate and contribute towards the support and maintenance of the "Morgan County Library," located on the state property at Berkeley Springs in Morgan county, the sum of three hundred dollars, annually, as an aid to education in said county.

[Passed February 25, 1929; in effect ninety days from passage. Became a law without the approval of the Governor.]

## SEC.

1. Payment by county court for county library.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Morgan county, West Virginia, is hereby authorized and empowered to pay out of the general county levy towards the support and maintainance of the Morgan county library, located on the state property at Berkeley Springs in Morgan county, the sum of three hundred dollars, annually, as an aid to education in said county:

## CHAPTER 164

(House Bill No. 267—By Mr. Vandervort)

AN ACT to authorize and empower the county court of Monongalia county to establish, equip, maintain, operate and manage a general hospital in said county for the treatment and care of patients, charitable and otherwise, and to use in part the county infirmary buildings for such purpose.

[Passed March 2, 1929; in effect ninety days from passage. Approved by the Governor.]

## SEC.

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|--|---|
| <ol style="list-style-type: none"> <li>1. County court may establish general hospital; may use infirmary buildings and grounds; pay patients and indigent poor.</li> </ol> | <ol style="list-style-type: none"> <li>2. Cost of, how paid.</li> <li>3. Reservation of room for indigent poor.</li> <li>4. No discrimination by county court.</li> </ol> |
|--|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Monongalia county is hereby authorized and empowered to establish, equip, maintain, operate and manage a general hospital in said county, to be known as the Monongalia county hospital, and for that purpose to use in part, the county infirmary buildings, grounds and equipment, and to admit thereto for treatment and hospitalization such pay patients as are able and willing to pay the reasonable cost thereof and for the care, hospitalization and treatment of the indigent poor for which the said court is responsible.

Sec. 2. The cost thereof and of so doing shall be provided for  
2 by said county court out of any funds in the hands of said  
3 court not otherwise appropriated.

Sec. 3. Such court shall at all times reserve in said build-  
2 ings all such room as shall be necessary to care for the poor,  
3 who are a county charge, as prescribed by law.

Sec. 4. Said court shall make no discrimination among the  
2 legal practitioners of said county or their patients.

# Resolutions

## SENATE JOINT RESOLUTION NO. 1

(Adopted January 23, 1929)

“Proposing location of Summer White House in West Virginia.”

WHEREAS, The President of the United States of America has called to the attention of Congress by message, the need of a nearby White House to make less burdensome upon the Chief Executive and First Lady of the Land, the duties incident to their positions, and,

WHEREAS, West Virginia comes within the suggested distance and has a topography and a climate that are ideal, and in it are found many very desirable locations for such purpose, surrounded by adequate acreage and served by direct highway and railway connections with Washington; therefore, be it

*Resolved by the Senate of West Virginia, the House of Delegates concurring therein:*

That the Governor be and hereby is authorized and empowered to appoint a commission of not more than five citizens to represent the interest of our state in this matter. The commission is authorized to hold or attend meetings within or without the state from time to time, and to employ such clerical and other help and assistance as may be needed to properly present to and urge upon the proper authorities the available locations in West Virginia suitable for the above mentioned purpose,

*Resolved, further,* That the Department of History and Archives is hereby directed to give all assistance requested by the commission in gathering data for its use in advocating the selection of a site in West Virginia,

*Resolved,* That the expense of the commission be paid out of the Governor's contingent fund, upon proper vouchers.

## SENATE JOINT RESOLUTION NO. 2

(Adopted January 29, 1929)

“Relating to the amendment of section twenty-two, article six, of the constitution of the state.”

WHEREAS, The legislature of West Virginia, at the regular session thereof in the year one thousand nine hundred and twenty-seven, to-wit, on April twenty-seven, one thousand nine hundred and twenty-seven, duly adopted a proposed amendment to section twenty-two of article six of the constitution of the state of West Virginia, which said amendment, having been read on three several days in each house, was agreed to on its third reading by two-thirds of the members elected thereto, and was thereupon entered on the journals of each house in accordance with section two of article fourteen of said constitution; the said proposed amendment providing that said section twenty-two of article six of the constitution be amended so as to read as follows:

“Sec. 22. All sessions of the legislature, other than extraordinary sessions, shall continue for a period of sixty days from the date of beginning. But all regular sessions may be extended by the concurrence of two-thirds of the members elected to each house.”

And,

WHEREAS, On the same day, to-wit, the twenty-seventh day of April, one thousand nine hundred and twenty-seven, said legislature, by an act then and there duly passed, provided for the submission of said proposed amendment to the voters of the State for ratification or rejection at the next general election to be held in the year one thousand nine hundred and twenty-eight, which act is designated as chapter twenty-eight of the acts of the legislature of West Virginia, regular session of one thousand nine hundred and twenty-seven, in which said act the said proposed constitutional amendment, designated as “Legislative Amendment,” is purported to be quoted in the following language, to-wit:

“Sec. 22. All sessions of the legislature, other than extraordinary sessions, shall continue in session for a period not exceeding sixty days from the date of convening without a concurrence of two-thirds of the members elected to each house.”

And,

WHEREAS, The said proposed amendment, pursuant to said act, was published at least hree months before such election in some newspaper in every county in the sate, and at the said general election held in said state on Tuesday, he sixth day of November, one thousand nine hundred and twenty-eight, the said proposed amendment was ratified by more than a majority of the qualified voters voting on the question pursuant to said act, and said result was duly ascertained and declared by the governor, and said result proclaimed by him by publication in one or more newspapers published at the seat of government, as provided by said act; in pursuance whereof the said proposed amendment became effective as part of the constitution of this state from and after the said sixth day of November, one thousand nine hundred and twenty-eight; and,

WHEREAS, It appears that the reference to said proposed amendment and, the language thereof as purported to be quoted in the act aforesaid, does not follow the exact terms of the amendment so agreed to and proposed by the legislature aforesaid, though conforming thereto in general meaning and intent; and that the amendment quoted in said act is ambiguous and uncertain in meaning;

Now, therefore, in order to obviate any question as to the legality of the ratification and adoption of said amendment and of its validity as part of the constitution as aforesaid, as well as any question as to the meaning and intent of the said amendment so ratified, be it

*Resolved by the Legislature of West Virginia:*

First. That the said proposed amendment to section twenty-two of article six of the constitution of this state, as duly agreed to by two-thirds of the members elected to each house at the regular session of one thousand nine hundred and twenty-seven, and entered upon the journals thereof, be, and the same is hereby declared to have been duly ratified by the voters of this state and adopted as part of the constitution thereof, and that the same now constitutes a part of said constitution, in the following language, to-wit:

“Sec. 22. All sessions of the legislature, other than extraordinary sessions, shall continue for a period of sixty days from the

date of beginning. But all regular sessions may be extended by the concurrence of two-thirds of the members elected to each house."

Second. That the variance in the language of said amendment as contained in said act providing for the submission thereof to the voters and as contained in the proclamation and publication thereof prior to said election, be, and the same is hereby declared to be immaterial and not to affect in any way the validity of the submission and ratification of said proposed amendment, and that any error, irregularity and variance therein be, and the same is now hereby declared to be of no effect as against the due and legal adoption of said amendment and the ratification thereof by the voters of the state.

Third. That the true meaning and intent of the language of said proposed amendment as purported to be set out in the act aforesaid and in the proclamation of the governor pursuant thereto be, and the same is now hereby declared to be the same as and identical with the said proposed amendment as originally agreed to by both houses of the legislature and entered upon its journals as aforesaid, and that the same shall in all cases be so construed; and that in all matters wherein the same may hereafter come in question, the meaning and intent thereof shall be held and construed to be that all sessions of the legislature, other than extraordinary sessions, shall continue for a period of sixty days from the date of beginning. But all regular sessions may be extended by concurrence of two-thirds of the members elected to each house."

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#### SENATE JOINT RESOLUTION NO. 4

(Adopted January 16, 1929)

"Providing for furnishing a set of West Virginia Reports to Hon. Elliott Northcott, United States Circuit Judge."

*Be it Resolved by the Legislature of West Virginia:*

That the secretary of state be authorized and directed to deliver to the Hon Elliott Northcott, United States circuit judge, for the fourth circuit, one complete set of the reports of the supreme court

of appeals of West Virginia, without cost, the same to be delivered at the office of said Judge at Huntington, West Virginia; and to furnish him additional volumes of said reports as the same are published.

### SENATE JOINT RESOLUTION NO. 8

(Adopted January 29, 1929)

“Providing for the submission to the voters of the state an amendment to the constitution of the state, amending section one and section sixteen of article seven thereof.”

*Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each house agreeing thereto:*

That section one and section sixteen of article seven of the constitution of th state of West Virginia be amended so as to read as follows:

Section 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, state superintendent of free schools, auditor, treasurer, commissioner of agriculture and attorney-general who shall be *ex-officio* reporter of the court of appeals. Their terms of office respectively shall be for four years and shall commence on the first Monday following the second Wednesday in January next after their election. They shall, except the lieutenant-governor, reside at the seat of government during their terms of office, and keep there the public records, books and papers pertaining to their respective offices and shall perform such duties as may be prescribed by law. The lieutenant-governor shall be president of the senate and shall be entitled to vote only in case of a tie. His salary shall not exceed one thousand dollars *per annum*. An election for lieutenant-governor shall be held at the same time and in the same manner as the election for governor, and a contest therefor determined in the same manner. The Senate shall choose a president *pro-tempore* in the absence or disability of the lieutenant-governor or when he shall exercise the office of governor of the state.

Sec. 16. *Succession to Governorship.* In case of the death, con-

viction or impeachment, failure to qualify, resignation or other disability of the governor, the lieutenant-governor shall act as governor until the expiration of the term thereof or until the disability is removed; and if the lieutenant-governor, for any of the above named causes shall become incapable of performing the duties of governor, the same shall devolve upon the president *pro-tempore* of the senate and if he is unable to act, then upon the speaker of the house of delegates; and in all other cases where there is no one to act as governor, one shall be chosen by a joint vote of the legislature.

#### SENATE JOINT RESOLUTION NO. 9

(Adopted January 24, 1929)

“Concerning Jackson Memorial Highway.”

WHEREAS, an improved highway is now either completed or under construction leading from the City of Erie through the state of Pennsylvania, via the City of Pittsburgh, to the West Virginia State line; and thence through the State of West Virginia, via Morgantown, Fairmont, Clarksburg, Sutton, Summersville, Gauley Bridge, Fayetteville, Beckley, Princeton, and Bluefield, to the Virginia state line; and thence leading through the states of Virginia, Tennessee, North Carolina, Georgia and Florida to the Gulf of Mexico, which highway is known and designated as United States route No. 19; and,

WHEREAS, the said highway passes through the City of Clarksburg, West Virginia, which is the birthplace of Stonewall Jackson, a military genius, of whom all Americans are proud; therefore, be it

*Resolved by the Legislature of West Virginia:*

“That the said highway above described, covering all the portion thereof which traverses the state of West Virginia, shall be known and is hereby designated as “The Stonewall Jackson Memorial Highway.”

*Resolved, further,* That the legislatures of each of the other several states through which the said highway leads from the

City of Erie to the Gulf of Mexico, are hereby memorialized and requested to pass resolutions similar to this one, to the end that the said highway may, throughout its entire length, from the Great Lakes to the Gulf of Mexico, be known and designated as "The Stonewall Jackson Memorial Highway";

*Resolved further*, That the clerk of the senate of West Virginia shall certify a copy of this resolution to the clerk of the state senate in each of the other states traversed by said highway, and shall also certify a copy thereof to the executive committee of the American Association of State Highway Officials, Washington, D. C.

#### SENATE JOINT RESOLUTION NO. 10

(Adopted January 28, 1929)

"Concerning appropriations for the improvement of the Ohio and Kanawha Rivers."

WHEREAS, there is now pending before the National congress, the so-called rivers and harbors act providing for appropriations for important improvements of the Ohio and Great Kanawha rivers, and

WHEREAS, the appropriation for the Ohio river will bring to completion the lock and dam system, long sought by the Western Border of this state, and to the tributaries thereto, and

WHEREAS, the proposed improvement to the Great Kanawha river will afford great relief to the coal industry of southern West Virginia, and will contribute another means of transportation to the great chemical plant located in the Kanawha Valley, and will enhance the opportunities for National defense where chemical plants, easily converted in time of war to munition factories, may safely operate on a protected inland stream and still be accessible to the Atlantic sea board; therefore, be it

*Resolved by the Senate of West Virginia, the House of Delegates concurring therein:*

That the legislature of West Virginia, concurring with proponents of the said act pending before the National congress, earnestly urges that no time should be lost in the enactment of this

measure in order that important work contemplated may be inaugurated at once.

*Resolved further*, that copies of this resolution be forwarded to the West Virginia delegation in the House of Representatives and in the United States Senate and that they be urged to use their influence to bring forth an early enactment of said measure.

### SENATE JOINT RESOLUTION NO. 12

(Adopted February 28, 1929)

“Providing for the submission to the voters of the state of an amendment to the constitution of the state as follows:”

Amending article eight by adding section thirty-one.

*Resolved by the Legislature of West Virginia, the Senate and House of Delegates both concurring therein:*

“That the question of the ratification or rejection of an amendment to the constitution of West Virginia shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred and thirty, which proposed amendment is as follows:”

#### *Proposed Amendment*

That article eight of said constitution of West Virginia be amended by adding section thirty-one, to read as follows:

Section 31. Jurisdiction in all matters of probate, the appointment and qualification of personal representatives, guardians, committees and curators, and the settlement of their accounts, shall hereafter be vested exclusively in the circuit court. Provision shall be made by the legislature for the appointment by each circuit court of a probate commissioner in each county who may be authorized by general law to exercise the powers and discharge the duties of the circuit court with respect to all or any of the matters above mentioned in this section, under the supervision and subject to the control of said court. Said probate commissioner shall hold office at the pleasure of said circuit court, but his compensation shall be fixed by general law.

## SENATE JOINT RESOLUTION NO. 15

(Adopted March 1, 1929)

“Authorizing the state board of control to receive for the West Virginia university and West Virginia state college, grants of money provided by the act of the congress of the United States approved by the President, May twenty-two, one thousand nine hundred and twenty-eight, and known as the Capper-Ketcham act.”

WHEREAS, The congress of the United States has passed an act approved by the President, May twenty-two, one thousand nine hundred and twenty-eight, entitled “an act to provide for the further development of agricultural extension work between the agricultural colleges in the several states receiving the benefits of the acts entitled “an act donating public lands of the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts approved July second, one thousand eight hundred and sixty-two, and all acts supplementary thereto, and the United States department of agriculture;” and

WHEREAS, It is provided in section one of the acts aforesaid, that the grants of money authorized by this act shall be paid annually “to each state which shall by action of its legislature assent to the provisions of this act;” therefore, be it

*Resolved, by the Legislature of West Virginia:*

That the assent of the legislature of the state of West Virginia be and is hereby given to the provisions and requirements of said act, and the state board of control the fiscal governing body of the West Virginia university and West Virginia state college, be and it is hereby authorized and empowered to receive the grants of money appropriated under said act, said moneys to be deposited in the state treasury, to the credit of the West Virginia university and West Virginia state college, as Capper-Ketcham funds, and to organize and conduct agricultural extension work which shall be carried on in connection with the college of agriculture of said university and West Virginia state college in accordance with the terms and conditions expressed in the act of congress aforesaid.

## SENATE JOINT RESOLUTION NO. 17

(Adopted March 2, 1929)

“Requesting a revised Budget Bill from the Budget Commission.”

WHEREAS, Senate Bill No. 104 has been passed by both houses of the legislature, and has been engrossed for the governor’s approval, and

WHEREAS, under the provisions of this bill, all fees, commissions and other moneys collected by state institutions, state departments and other state agencies, with certain general exceptions, shall go into the state fund, general revenue, on and after July 1, 1929, and

WHEREAS, these moneys, aggregating a large sum, have heretofore gone into special funds and have been disbursed without specific legislative appropriation, which practice, under the provisions of Senate Bill No. 104, will be discontinued, and

WHEREAS, the budget bill submitted to the legislature by the budget commission was made up originally without knowledge that there would be a change in the administrative practice of handling these fees and commissions, and that such budget bill will need to be revised under this new plan,

*Therefore, be it resolved by the Senate, the House of Delegates concurring therein:*

That the budget commission be requested and privileged to withdraw the present budget bill now pending before the finance committees of the senate and house, with a view of making such amendments as may be deemed necessary in the appropriation of public moneys for the ensuing biennial period, and that the revised budget bill, when returned by the budget commission, shall be submitted and considered as a substitute for the pending budget bill.

## SENATE JOINT RESOLUTION NO. 18

(Adopted March 7, 1929)

“Adopting a state flag for the state of West Virginia.”

WHEREAS, The legislature of West Virginia, by joint resolution passed on the twenty-fourth day of February, one thousand nine hundred and five, adopted a state flag prescribing the design thereof; and

WHEREAS, The design so adopted is impractical of manufacture, making the cost of purchase thereof prohibitive to the schools of the state and others desiring to purchase said flag; and

WHEREAS, There has been worked out a design embodying all of the features of the first West Virginia state flag so adopted, but so designed as to be practical of manufacture at a reasonable cost to those desiring to purchase the same; and

WHEREAS, It seems desirable to change the design of the West Virginia state flag; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the legislature of West Virginia hereby adopts a state flag of the following design and proportions to-wit:

The proportions of the flag of the state of West Virginia shall be the same as those of the United States ensign; the field shall be pure white, upon the center of which shall be emblazoned in proper colors, the coat-of-arms of the state of West Virginia, upon which appears the date of the admission of the state into the Union, also with the motto “Montani Semper Liberi” (Mountaineers Always Freeman) above the coat-of-arms of the state of West Virginia there shall be a ribbon lettered, state of West Virginia, and arranged appropriately around the lower part of the coat-of-arms of the state of West Virginia a wreath of rhododendron maximum in proper colors. The field of pure white shall be bordered by a strip of blue on four sides. The flag of the state of West Virginia when used for parade purposes shall be trimmed with gold colored fringe on three sides and when used on ceremonial occasions with the United States ensign, shall be trimmed and mounted in similar fashion to the United States flag as regards fringe cord, tassels and mounting.

## SENATE CONCURRENT RESOLUTION NO. 1

(Adopted January 9, 1929)

“Raising a Joint Committee to wait upon the Governor,”

*Resolved by the Senate, the House of Delegates concurring therein:*

“That a joint committee be appointed, three by the president of the senate and three by the speaker of the house of delegates, to wait upon the governor and inform him that the legislature is organized with a quorum present and is ready to receive any communication he may be pleased to present.”

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## SENATE CONCURRENT RESOLUTION NO. 2

(Adopted January 23, 1929)

Providing for the appointment of a joint supervisor of printing for the two houses.”

*Resolved,* That the clerks of the senate and house of delegates appoint a supervisor of printing who shall have general oversight and direction of the printing of the two houses, under the direction and supervision of the clerks, one-half of his compensation to be paid by the senate and one-half by the house of delegates, at a *per diem* of fifteen dollars per day.

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## SENATE CONCURRENT RESOLUTION NO. 3

(Adopted February 13, 1929)

“Raising a joint committee to investigate the Penitentiary.”

WHEREAS, It is evident that a serious condition exists at the state penitentiary at Moundsville as the result of over-crowding of the institution, and

WHEREAS, The problem of employment of prison labor has been dealt with by the Federal congress in such a way as will seriously affect the contracts under which prison labor in West Virginia has been employed, and

WHEREAS, A situation of grave serious concern confronts the State of West Virginia in the problems arising from the overcrowded condition in the state penitentiary, and also the matter of relieving same, and

WHEREAS, The effect of federal legislation presents a serious problem in dealing with the employment of this labor to the extent that the penitentiary may become a heavy charge upon the State of West Virginia, and

WHEREAS, These matters are of such grave importance that the legislature should have first hand information in dealing with the same, therefore, be it

*Resolved by the Senate of West Virginia, the House of Delegates concurring therein:*

That a joint committee of seven members, three to be appointed by the president of the senate and four to be appointed by the speaker of the house, be created, with full authority to make an investigation of present conditions at the state penitentiary on all phases of the question of administration and the employment of labor and any other matters dealing therewith, and that this committee shall proceed to make a full investigation and report to the legislature at the earliest possible time with its recommendaions for the guidance of the legislature in dealing with these problems.

Said committee shall have power to employ such clerical assistance as it shall deem necessary, in the proper and efficient discharge of its duties, and is hereby vested with power and authority to administer oaths, compel the attendance and testimony of witnesses, and the production of such books, papers or accounts as the committee may deem necessary to make a thorough examination into the condition of said institution.

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#### SENATE CONCURRENT RESOLUTION NO. 4

(Adopted March 5, 1929)

“Providing for the introduction of a bill, relating to the charter of the City of Weston.”

Permission is hereby given to introduce a bill with the following title:

“A Bill to amend and reenact section ten of chapter ninety of the Acts of the Legislature of West Virginia of one thousand nine hundred and thirteen; relating to the charter of the City of Weston.”

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SENATE CONCURRENT RESOLUTION NO. 5

(Adopted March 7, 1929)

“Providing for the introduction of a bill, submitting an amendment to section ten of article eight of the constitution.”

Permission is hereby given to introduce a bill with the following title:

“A Bill to provide for submission to the voters of the state an amendment to the constitution of the state, amending section ten of article eight of the constitution.”

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HOUSE JOINT RESOLUTION NO. 3

(Adopted March 7, 1929)

“Proposing an amendment to section fifty-one of article six of the constitution of this state.”

*Resolved by the Legislature of West Virginia, two-thirds of all the members of each House agreeing thereto:*

That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provision of section two of article fourteen of said constitution, shall be submitted to the voters of the state at the next general election to be held in the year of one thousand nine hundred and thirty, which proposed amendment is as follows:

Section 51. The legislature shall not appropriate any money out of the treasury except in accordance with the following provisions::

SUB-SECTION A

Every appropriation bill shall be either a budget bill or a supplementary appropriation bill as hereinafter mentioned.

## SUB-SECTION B

*First.* Within ten days after the convening of the legislature, unless such time shall be extended by the legislature for the session at which the budget is to be submitted, the governor shall submit to the legislature two budgets, one for each ensuing fiscal year. Each budget shall contain a complete plan of proposed expenditures and estimated revenues for the particular fiscal year to which it relates; and shall show the estimated surplus or deficit of revenues at the end of the year. Accompanying each budget shall be a statement showing (1) the revenues and expenditures for each of the two fiscal years preceding; (2) the current assets, liabilities, reserves and surplus or deficit of the state; (3) debts and funds of the state; (4) an estimate of the state's financial condition as of the beginning and end of each of the fiscal years covered by the two budgets above provided; (5) any explanation the governor may desire to make as to the important features of any budget and any suggestion as to methods for the reduction or increase of the state's revenue.

*Second.* Each budget shall be divided into two parts, and the first part shall be designated "governmental appropriations" and shall embrace an itemized estimate of the appropriations: (1) for the legislature as certified to the Governor in the manner herein-after provided; (2) for the executive department; (3) for the judiciary department, as provided by law, certified to the governor by the auditor; (4) to pay and discharge the principal and interest of any debt of the state of West Virginia created in conformity with the constitution, and all laws enacted in pursuance thereof; (5) for the salaries payable by the state under the constitution and laws of the state; (6) for the aid of public schools in conformity with the laws of the state; (7) for such other purposes as are set forth in the constitution and laws made in pursuance thereof.

*Third.* The second part shall be designated "general appropriations," and shall include all other estimates of appropriations.

The governor shall deliver to the presiding officer of each house the budgets and a bill for all of the proposed appropriations of the budgets clearly itemized and classified; and the presiding officer of each house shall promptly cause said bill to be introduced therein and such bill shall be known as the "Budget Bill." The governor may, before final action thereon by the leg-

islature, amend or supplement either of said budgets to correct an oversight; or, in case of an emergency, with the consent of the legislature, by delivering such an amendment or supplement to the presiding officers of both houses; and such amendment or supplement shall thereby become a part of said budget bill as an addition to the items of said bill or as a modification of or a substitute for any item of said bill such amendment or supplement may effect.

The legislature shall not amend the budget so as to create a deficit, but may amend the bill by increasing or diminishing the items therein, or inserting new items therein; *provided, however*, that the salary or compensation of any public officer shall not be increased or diminished during his term of office.

When such bill has been passed by both houses, it shall be immediately presented to the governor, who may approve, veto as a whole, veto any item therein, or decrease any item therein.

If the governor veto the bill as a whole, or any item therein, or decrease any item therein, he shall return the bill to the house in which it originated, together with a statement of his reasons for so doing. The legislature may, by a two-thirds vote of all the members elected to each branch, taken by yeas and nays, override the veto of the governor, in which case it shall become a law as originally passed, notwithstanding the veto of the governor.

*Fourth.* The governor and such representatives of the executive departments, boards, officers and commissions of the state, expending or applying for state moneys as have been designated by the governor for this purpose, shall have the right, and when requested by either house of the legislature, it shall be their duty to appear and be heard with respect to any budget bill during the consideration thereof, and to answer inquiries relating thereto.

#### SUB-SECTION C—SUPPLEMENTARY APPROPRIATION BILLS

Neither house shall consider other appropriations until the budget bill has been finally acted upon by both houses, and no such other appropriation shall be valid except in accordance with the provisions following: (1) every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated and called herein a suple-

mentary appropriation bill; (2) each supplementary appropriation bill shall provide the revenue necessary to pay the appropriation thereby made by a tax direct or indirect, to be laid and collected as shall be directed in said bill, unless it appears from such budget that there is sufficient revenue available; (3) no supplementary appropriation bill shall become a law unless it be passed in each house by a vote of a majority of the members present, and the yeas and nays recorded on its final passage; (4) each supplementary appropriation bill shall be presented to the governor of the state as provided in section fourteen of article seven of the constitution, and thereafter all the provisions of said section shall apply.

Nothing in this amendment shall be construed as preventing the legislature from passing in time of war an appropriation bill to provide for the payment of any obligation of the state of West Virginia within the protection of section ten of article one of the constitution of the United States.

#### SUB-SECTION D—GENERAL PROVISIONS

*First.* If the budget bill shall not have been finally acted upon by the legislature three days before the expiration of its regular session, the governor may, and it shall be his duty to issue a proclamation extending the session for such further period as may, in his judgment, be necessary for the passage of such bill; but no other matter than such bill shall be considered during such extended session, except a provision for the cost thereof.

*Second.* The governor, for the purpose of making up his budgets, shall have power and it shall be his duty to require from the proper state officials, including herein all executive departments, all executive and administrative officers, bureaus, boards, commissions and agencies expending or supervising the expenditure of and all institutions applying for state moneys and appropriations, such itemized estimates and other information, in such form and at such times as he shall direct. The estimates for the legislative departments, certified by the presiding officer of each house, of the judiciary, as provided by law, certified by the auditor, and for the public schools, as provided by law, shall be transmitted to the governor, in such form and at such times as he shall direct, and shall be included in the budget.

The governor may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies, and of all institutions applying for state moneys. After such public hearings, he may, in his discretion, revise all estimates except those for the legislative and judiciary departments and for the public schools as provided by law.

*Third.* The legislature may, from time to time, enact such laws not inconsistent with this section as may be necessary and proper to carry out its provisions.

*Fourth.* In the event of any inconsistency between any of the provisions of this section and any of the other provisions of the constitution, except amendments thereto heretofore made and ratified by the people, the provisions of this section shall prevail. But nothing herein shall be construed as preventing the governor from calling extraordinary sessions of the legislature, as provided by section seven of article seven, or as preventing the legislature at such extraordinary sessions from considering any emergency appropriation or appropriations.

If any item of any appropriation bill passed under the provisions of this section shall be held invalid upon any ground, such invalidity shall not affect the legality of the bill or of any other item of such bill or bills."

#### HOUSE JOINT RESOLUTION NO. 4

(Adopted March 9, 1929)

"Providing for the submission to the voters of the state of an amendment to the constitution of the state as follows:"

Amending section ten, article eight.

*Resolved by the Legislature of West Virginia, the Senate and House of Delegates both concurring therein:*

"That the question of the ratification or rejection of an amendment to the constitution of West Virginia shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred and thirty, which proposed amendment is as follows:"

*Proposed Amendment*

“That section ten of article eight of said constitution of West Virginia be amended to read as follows:”

Section 10. The legislature shall divide the state into circuits, and shall determine the number of judges to be elected in each circuit. Each of the judges so elected shall hold his office for a term of eight years unless sooner removed in the manner prescribed in this constitution. The judges of the circuit courts in office when this article takes effect, shall remain therein until the expiration of the term for which they have been elected in the circuits in which they may respectively reside, unless sooner removed as aforesaid. A vacancy in the office of a judge of the circuit court shall be filled in the same manner as is provided for in the case of a vacancy in the office of a judge of the supreme court of appeals. During his continuance in office the judge of a circuit court shall reside in the circuit of which he is the judge. In those circuits where there shall be elected more than one judge, the business of the circuits shall be apportioned between the judges thereof in such manner as may be prescribed by law. The judges may hold courts in the same county or in different counties within the circuit at the same time or at different times, as may be prescribed by law.

## HOUSE JOINT RESOLUTION NO. 5

(Adopted March 9, 1929)

“Authorizing the Governor to appoint a commission to study constitutional needs.”

WHEREAS, The constitution of the state of West Virginia was adopted in one thousand eight hundred and seventy-two, many years prior to the development of our resources, in a period when the state was sparsely settled, educational facilities were limited and transportation difficulties precluded intimate contact with other states; and

WHEREAS, Our expanding industrial, commercial and social life has made it imperative in subsequent years to submit a deluge of amendments to the original constitution at ensuing elections in efforts to perfect the fundamental law of the state; and

WHEREAS, These patch-work amendments have been given but scant consideration by the successive legislatures which have

submitted them and have failed to meet the existing necessity for greater constructive changes and amendments to the constitution; therefore,

*Be it Resolved by the Legislature of West Virginia:*

That as soon as practicable after March fourth, one thousand nine hundred and twenty-nine, the governor of the state of West Virginia be and he is hereby authorized and directed to appoint a commission to study the constitution and the needs of the state and to submit to the governor at least thirty days prior to the next regular session of the legislature such amendments to the state constitution as the commission deems necessary to remove existing barriers and restrictions to the further and greater development of the state and its diversified interests. Said commission shall consist of eleven members, including a judge of the supreme court of appeals. In the appointment of other members of the said commission the governor is hereby directed to designate at least one member from each of the six congressional districts and to give consideration in making such appointments to those interests generally known as agriculture, public utilities, labor, coal, manufacturing, oil and gas and to the legal profession. Upon the completion of the report the commission shall file same with the governor who is hereby directed to make it public in order that it may have the thorough consideration of the people of the state prior to the assembling of the legislature and to transmit said report to the next regular session of the legislature.

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HOUSE JOINT RESOLUTION NO. 8

(Adopted March 6, 1929)

“Relating to the printing of the minutes of the Wheeling Convention of one thousand eight hundred and sixty-one and the Constitutional Convention of one thousand eight hundred and sixty-two.”

WHEREAS, There appears in the acts of the legislature of one thousand nine hundred and seven at page five hundred and fifty-seven the following:

“To pay Granville D. Hall for manuscript containing full minutes of the proceedings of the convention held at Wheeling, West

Virginia, in one thousand eight hundred and sixty-one, known as the Wheeling convention, two thousand five hundred dollars''; and

WHEREAS, There was delivered to the State of West Virginia and deposited in the department of archives and history such manuscript so prepared by Granville D. Hall, in the year one thousand nine hundred and seven, where the same has remained and is now so deposited, and,

WHEREAS, Such manuscript contains a very important part of the history of the formation of the State of West Virginia, and has never been printed or distributed, and is not now accessible to the people of the State, and there is a general desire on the part of a large number of citizens to obtain copies of such historical manuscript; therefore,

*Be it Resolved by the Legislature of West Virginia:*

That the board of public works be and it is hereby requested to provide in its supplementary budget a sufficient sum of money to print and bind in a proper form at least the number of two thousand copies of such manuscript now owned by the State of West Virginia which copies when so printed and bound shall be sold at a price for each volume fixed by the board of public works and in fixing such price the board shall give due consideration to the cost thereof. Such printing and binding may be done under the supervision of the Secretary of State. Sufficient copies should be given to the libraries of the university, and other state supported schools, and to all tax supported public libraries and state law library and to all elected officials and to all judges of the courts, and to all members of the Senate and House of Delegates.'

SENATE SUB. FOR HOUSE JOINT RESOLUTION NO. 10

(Adopted March 8, 1929)

''Raising a joint committee to examine the report of the revisers of the code.''

WHEREAS, The Legislature of one thousand nine hundred and twenty-seven provided for the appointment of a joint committee of the Legislature to examine and report upon the report of the revisers of the code of West Virginia, and

WHEREAS, The committee was to report to a special session of the Legislature to be held in January, one thousand nine hundred and twenty-eight, and

WHEREAS, No such special session was held and no one of the House members of said committee is now a member of the House, and

WHEREAS, There appears to be an almost universal desire for the adoption of the revised code with certain changes and modifications that have been suggested by the state bar association and sundry persons and organizations and,

WHEREAS, It will be necessary to make further examination of said report, as to the proposed modifications and changes and the changes that will be necessary owing to the acts of the legislature of one thousand nine hundred and twenty-seven and the acts of the present session and the proper codifications thereof. *Therefore, be it Resolved by the Legislature of West Virginia:*

That a joint committee consisting of the members of the Senate who were members of the committee appointed in one thousand nine hundred and twenty-seven, under Senate Joint Resolution No. 16, the Speaker of the House of Delegates and three members thereof to be appointed by the Speaker of the House, together with five members of the bar, to be appointed by the Governor, be hereby created, for the purpose of making further examination of the report of the revisers of the code of West Virginia and proposed modifications and changes thereof, and the codifications and changes made necessary by reason of the acts of the legislature passed since the filing of the report of the revisers of the code. The committee shall in all respects execute and complete the revision and codification of the statutes of West Virginia in such manner as in their opinion will harmonize the general statutes and make the code of statute law as existing at the close of their work as complete as possible. Promptly upon completion of their work they shall make to the Governor a report accompanied by a bill of adoption of the code. For that purpose the said joint committee is authorized, empowered and directed to act in conjunction with any committee of the state bar association in making their said examination and necessary changes in said revisers report. The members of the said committee appointed by the Governor shall serve without compensation.

*Resolved, further,* that the Governor be requested to call a spe-

cial session of the legislature for the purpose of considering and acting upon the proposed revised code of West Virginia.

## HOUSE CONCURRENT RESOLUTION NO. 2

(Adopted January 9, 1929)

“Raising a joint assembly.”

*Resolved*, That the Senate and House meet in joint assembly at 3:30 P. M., today in the chamber of the House of Delegates, to receive any communication His Excellency the Governor, may care to present.”

## HOUSE CONCURRENT RESOLUTION NO. 3

(Adopted January 10, 1929)

“Raising a joint assembly.”

*Resolved*, That the two houses of the Legislature convene in joint assembly in the hall of the House of Delegates at 2:30 o'clock in the afternoon of this day, that the Speaker of the House may, in the presence of the Senate, open and publish the returns of the election of Governor and the other State officers elected at the general election held throughout the state on the 6th day of November, 1928, as provided by section 3 of article 7 of the Constitution of this state.

## HOUSE CONCURRENT RESOLUTION NO. 4

(Adopted January 16, 1929)

“Raising a Joint Committee on Rules.”

*Resolved, by the House of Delegates of West Virginia, the Senate concurring therein:*

That, a committee of three members of the House, to be appointed by the Speaker, and a like number from the Senate, to be appointed by the President, constitute a joint committee on Joint Rules of the House and Senate.

## HOUSE CONCURRENT RESOLUTION NO. 5

(Adopted January 16, 1929)

“Authorizing the Auditor to draw his warrants for the mileage of members and for the per diem of officers and attaches of the House and Senate.”

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Auditor is authorized to draw his warrants upon the Treasury, in advance of the appropriation for the purpose, for the mileage of the members of the House and Senate, and for the per diem of the officers and attaches of the House and Senate.

## HOUSE CONCURRENT RESOLUTION NO. 7

(Adopted February 4, 1929)

“For the establishment and maintenance of a general hospital for the care and treatment of veterans within the State of West Virginia.”

WHEREAS, The government of the United States has provided by law that free hospitalization be granted to all honorably discharged veterans of wars in which the United States has engaged, regardless of whether veteran was shot in battle or otherwise disabled in the service. This service is extended first to veterans suffering from service connected disabilities, then to other veterans so far as beds are available, and

WHEREAS, The veterans of West Virginia are placed at a peculiar disadvantage for treatment by reason of the great distance to the hospitals to which such veterans are all located, and by reason of a certain shortage in beds at the hospitals at the most difficult seasons of the year, and

WHEREAS, The American Legion, department of West Virginia, by resolution adopted at the ninth annual convention held during the month of August, one thousand nine hundred and twenty-seven, and re-affirmed at the tenth annual convention held during the month of September, one thousand nine hundred and

twenty-eight, recommended and urged that a general medical hospital be established at some point in the state of West Virginia, and

WHEREAS, The present session of the Congress of the United State has before it an appropriation act providing for ten million dollars for enlarging the present hospitals and for building new ones, and

WHEREAS, There is no provision in this bill for the relief of the veterans of West Virginia as urged and recommended, and

WHEREAS, The establishment of such a hospital located at such point to be of convenient access, for the treatment of sick and disabled former soldiers would relieve the government from the payment of vast sums in compensation and transportation charges and would release and refit many of these men to the fields of peaceful industry as useful citizens employed in gainful pursuits, therefore be it

*Resolved by the Legislature of West Virginia:*

That a committee of five be appointed from the senate and house of delegates, two by the president of the senate and three by the speaker of the house, to wait upon and represent to the director of the United States veterans bureau and other officers having authority in the establishment and location of hospitals, the necessity and advantage in establishing and maintaining a general medical hospital for the care and treatment of veterans within the state of West Virginia.

*Resolved, further,* That the expense of this committee be paid out of the governor's contingent fund, upon proper vouchers drawn by the committee.

## HOUSE CONCURRENT RESOLUTION NO. 10

(Adopted February 8, 1929)

“Recognizing the distinguished service of Master Sergeant Roy W. Hooe, U. S. Army, formerly of Charles Town, Jefferson county, West Virginia, to the cause of aviation and expressing the deep appreciation of the State of West Virginia of his contribution in the historic flight of the “Question Mark.”

WHEREAS, Master Sergeant Roy W. Hooe, a native of Charles Town, Jefferson county, West Virginia, a skillful and masterful

mechanic, has taken part in the historic flight of the "Question Mark" in which a new world record for endurance was established; and

WHEREAS, his genius, persistence, and courage have awakened the admiration and wonder of his fellow aviators in placing in him the trust and faith that was occasioned by reason of his previous service to aviation and,

WHEREAS, it is reported that Sergeant Hooe and other members of the crew of the "Question Mark" are today the guests of his native town for the bestowal of proper honors upon its distinguished son, therefore be it

*Resolved by the Legislature of West Virginia:*

That in recognition of his distinguished service to the cause of aviation and the honor that he has reflected upon his native state by his undaunted courage and skill, this body do formally express upon behalf of the State of West Virginia its deep appreciation of Master Sergeant Hooe's contribution to this historic flight and that the Governor extend an invitation to Master Sergeant Roy W. Hooe and his comrades to visit the state capitol before returning to Washington or at some other future time convenient to him to receive therefrom its thanks and sincere appreciation for their valorous and courageous service.

### HOUSE CONCURRENT RESOLUTION NO. 13.

(Adopted February 27, 1929)

"Concerning the birthplace of Nancy Hanks."

WHEREAS, The press throughout the country during the past two years has frequently announced that the birth place of the mother of Abraham Lincoln (Nancy Hanks) has been definitely established within the borders of West Virginia, and

WHEREAS, Many articles have appeared in reliable magazines throughout the country written by the Lincoln biographer, Hon. William E. Barton, establishing the fact that Nancy Hanks was born on Mike's Run, a tributary of Patterson's Creek in Mineral County, West Virginia, and

WHEREAS, A local organization has been established in Mineral county known as the Nancy Hanks Memorial Association with

the object of marking the birth place of the mother of our martyred President;

*Resolved*, That the Governor be empowered to appoint a commission consisting of five citizens of West Virginia whose duty it shall be to investigate the evidence supporting the assertions and declarations as to the birth place of Nancy Hanks, and if found to be true said commission is to report these facts to the next legislature with recommendations as to the advisability of the State of West Virginia, erecting there a suitable memorial.

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### HOUSE CONCURRENT RESOLUTION NO. 14

(Adopted February 28, 1929)

“Relating to Booker T. Washington.”

WHEREAS, The late Booker T. Washington, renowned educator and emancipator, spent his early childhood and manhood at Malden, Kanawha County, West Virginia, and

WHEREAS, Through great difficulties and at a great sacrifice, he secured an education; in order to uplift his people, at a time when educational opportunities were meager for the white race and practically none at all for the race to which he belonged,

WHEREAS, Being a child of slavery, born in obscurity, handicapped by poverty, he nevertheless succeeded in breaking the chains of ignorance and superstition of his people, supplanting in its place industry and thrift, and through this and the great contribution he made in bringing the races closer together, he arose to be acclaimed by two continents as one of the greatest men America has produced, and

WHEREAS, He has been justly called the father of industrial education, having popularized it to the extent that it has been put into the public school systems of several States.

WHEREAS, The negro clubwomen through the West Virginia state federation of colored women's clubs have formed a corporation to establish and maintain a memorial park with a fitting monument and buildings therein on the old home spot and surrounding territory of Malden, West Virginia, and

WHEREAS, The president, Mrs. A. L. Spaulding, and the executive secretary, Mrs. J. H. Love, have secured the endorsements and recommendations of leading statesmen, financiers and philan-

thropists of the state and nation, including the President of the United States, Hon. Calvin Coolidge and President-elect, Hon. Herbert Hoover.

*Be it Resolved*, That the legislature of West Virginia, by resolution go on record as endorsing said memorial, not only as a means of honoring this distinguished son of West Virginia, but as a sign of encouragement to the youth of America, who are laboring under similar handicaps.

#### HOUSE CONCURRENT RESOLUTION NO. 15.

(Adopted March 9, 1929.)

“Providing for the printing and distribution of advance copies of the acts of the regular session of one thousand nine hundred and twenty-nine.”

*Resolved by the House of Delegates, the Senate concurring therein:*

That the clerks of the two houses are hereby directed to have printed by the public printer, two thousand five hundred advance copies of the acts of this session exclusive of municipal charters, properly head noted, and with a full table of contents, and in paper binding, for distribution among the members of the legislature, judges of the supreme court of appeals, and of the circuit, criminal and intermediate courts, circuit and county clerks, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said advance copies to the clerks of the two houses as soon as possible after the adjournment of this session. Upon receipt of the same, the clerks shall, without delay, forward by mail or express to each member of the Senate and House of Delegates at least ten of said advance copies, and one copy each to the officials hereinbefore enumerated, and ten copies to each of the state officials, and the remainder, if any, they shall deliver to the secretary of state for general distribution. The said clerks are also authorized and directed to have printed in signature form or advance sheets, any general law which they may deem of sufficient importance to be issued and distributed in that form. The sum of two hundred dollars out of

the contingent fund of the House and one hundred dollars out of the contingent fund of the Senate is hereby directed to be paid by the auditor upon proper warrants, respectively, to pay the postage or expressage on said advance copies.

For extra work provided for in this resolution, the time of said clerks, the secretaries to the clerks, the supervisor of printing of the two houses and four assistant clerks from each house is extended for sixty days, the compensation to be paid out of the contingent fund of the Senate and House, respectively, upon proper warrants being drawn therefor by the clerk of the Senate and Sergeant-at-Arms of the House, and the Auditor is hereby authorized and directed to pay the same.

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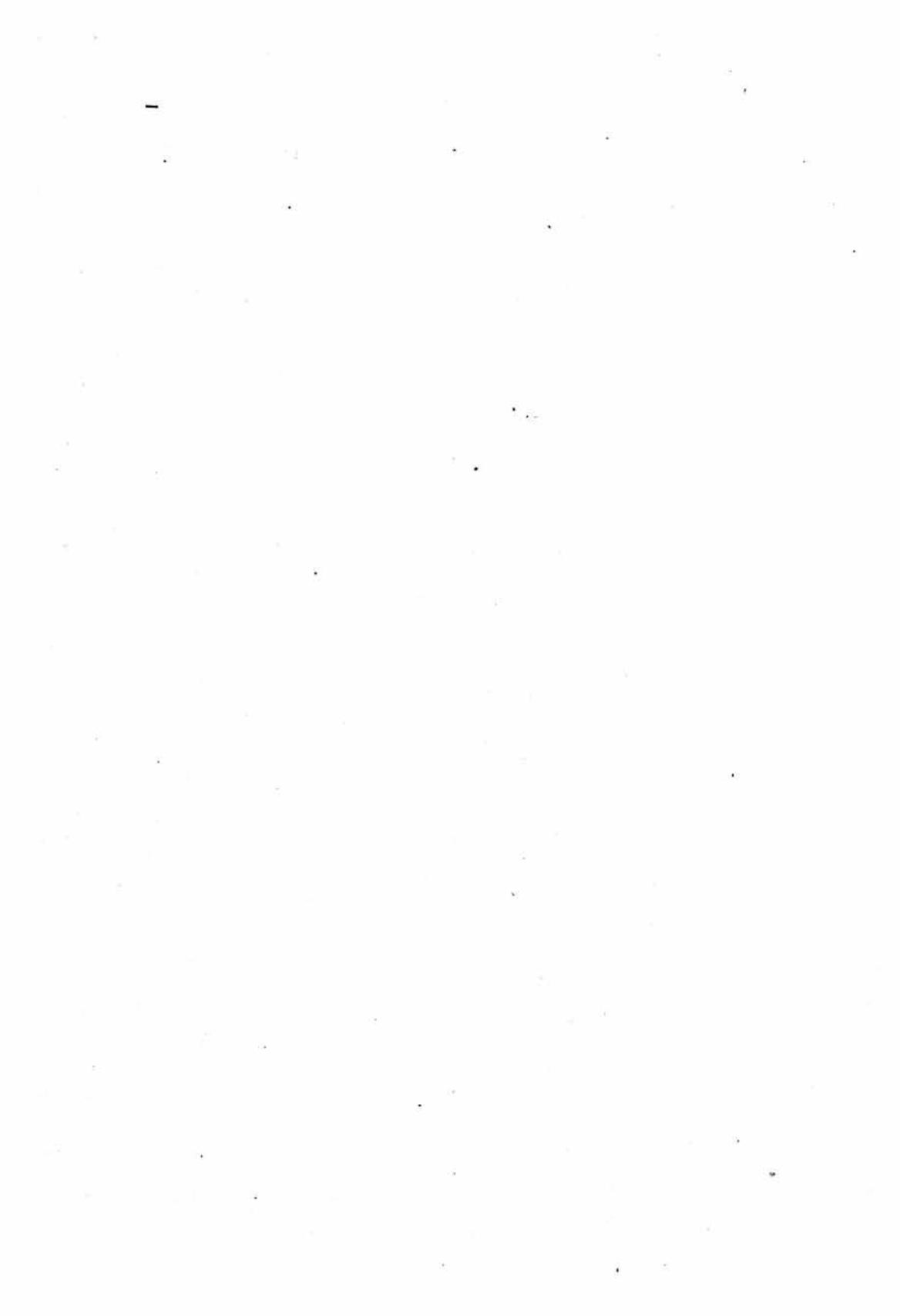
HOUSE CONCURRENT RESOLUTION NO 16.

(Adopted March 16, 1929)

“Raising a joint committee to wait upon the Governor.”

*Resolved by the House of Delegates, the Senate concurring therein:*

That a joint committee of five, consisting of three on the part of the House of Delegates, to be appointed by the Speaker thereof, and two on the part of the Senate, to be appointed by the President thereof, be appointed for the purpose of notifying the Governor that the legislature is ready, under the constitution, to adjourn *sine die*, and ask him if he has any further communication to make.



# INDEX

## ACTS AMENDED:

CH.	SEC.	ACTS	SEC.	PAGE
74	3	1911 .....	3	385
79	.....	1913 .....	7-a	479
79	16	1913 .....	16	474
9	1	1915 .....	1	272
9	40	1915 .....	40	272
29	.....	1915 .....	.....	281
32	29-a	1915 .....	29-a	282
2	67	1919 .....	67	167
12	4	1919 .....	4	468
115	1, 3, 4	1919 .....	1, 3, 4	403
131	29	1919 .....	29	272
131	43	1919 .....	43	272
23	1	1921 .....	1	2
29	1	1921 .....	1	412
48	4	1921 .....	4	424
53	2	1921 .....	2	403
92	1	1921 .....	1	3
103	.....	1921 .....	.....	310
115	31, 31-a, 31-b	1921 .....	4, 31, 31-a, 31-b, 41	254
116	.....	1921 .....	.....	32
168	8	1921 .....	8	461
183	3	1921 .....	3	478
29	4, 37	1923 .....	4, 37	254
29	79	1923 .....	79	101
49	.....	1923 .....	1-18	28
54	.....	1923 .....	1-11	186
55	.....	1923 .....	1-8	183
58	18	1923 .....	18	272
58	38	1923 .....	38	272
60	1-6	1923 .....	1-6	158
129	11	1923 .....	11	174
145	34	1923 .....	34	175
17	80	1925 .....	80	271
36	3	1925 .....	3	295
64	8	1925 .....	8	299
65	.....	1925 .....	1-124	32
68	47, 52	1925 .....	47, 52	272
81	.....	1925 .....	6	172
88	4	1925 .....	4	82
91	12	1925 .....	12	146
107	10	1925 .....	10	424
120	13	1925 .....	13	476
126	1	1925 .....	1, 2	471
10	1-3	1927 .....	1-3	165

## INDEX TO ACTS

CH.	SEC.	ACTS	SEC.	PAGE
15	14-a-1	1927.....	14-a-1	270
23	1, 4	1927.....	1, 4	411
24	.....	1927.....	...	80
31	76-b	1927.....	76-b	150
43	.....	1927.....	1-124	32
51	1-g, 1-h	1927.....	1-g, 1-h	458
51	1-h	1927.....	1-h	460
55	.....	1927.....	5	157
62	.....	1927.....	1, 3	161
72	1	1927.....	1	396
87	8	1927.....	8	383
130	8-10	1927.....	8-10	446
132	.....	1927.....	...	429
148	.....	1927.....	1, 2	475
<b>ACTS REPEALED:</b>				
	32	.....	1923.....	1-35 103
	30, 31, 32	.....	1925.....	1-35 103
	34	.....	1925.....	1-35 103
	68	57	1925.....	52 280
	21	.....	1927.....	1-35 103
<b>ADJUTANT GENERAL:</b>				
	(See SOLDIERS, SAILORS AND MARINES).....			— 301
<b>AGRICULTURE, DEPARTMENT OF:</b>				
	(See COMMERCIAL FEEDSTUFFS).....			— 187
<b>AIRPORTS AND LANDING FIELDS:</b>				
	Aircraft; definition .....		1	248
	illegal operation; penalty .....		13	252
	operator; ..intoxication, penalty .....		11	251
	license .....		7	251
	violation, penalty .....		10	251
	where kept .....		8	251
	registration and licensing .....		9	251
	violation, penalty .....		10	251
	Aviation over cities, towns, etc.; penalty.....		12	252
	Establishment .....		2	248
	approval .....		2	249
	levy .....		6	250
	officer, board or body for.....		2	248
	Joint ownership .....		5	249
	abandonment under .....		5	250
	establishment under .....		5	250
	maintenance under .....		5	250
	Maintenance and operation, fee for use .....		4	249
	Property, acquisition of .....		3	249
	purchase price; how paid .....		3	249

INDEX TO ACTS

iii

ALIENS:	Sec.	Page
Not to hunt, fish or carry firearms .....	19	40
penalty .....	31	45
AMBULANCE:		
(See MOTOR VEHICLES) .....	—	270
ANNUITY CONTRACTS AND BONDS:		
Appraisal of mortgaged property or bonds .....	5	264
Authority of insurance commissioner .....	12	266
Definition .....	4	264
Exemptions from provisions of act .....	1	263
License to sell; how obtained .....	2	263
deposit on application .....	3	264
credit for in other states .....	5	265
when exempted .....	5	265
Loans; limitation on, to officers, etc .....	9	266
approval by officers .....	10	266
personal liability of officers, etc. ....	13	267
rewards for negotiation of, prohibited .....	11	266
Penalties .....	8	266
Permit, to engage in soliciting; when .....	1	263
fee .....	5	265
when revoked .....	6	265
Persons issuing; examination .....	7	266
report by .....	7	266
APPROPRIATIONS:		
Agriculture fairs .....	31	342
Berkeley Springs park .....	58	349
Board of architects .....	K-9	380
Board of bar examiners .....	K-11	380
Board of engineers .....	K-10	380
Board of examiners of accounts .....	K-13	380
Board of osteopathy .....	K-12	380
Capitol building and grounds .....	22	339
{	101	375
Civil contingent fund .....	9	333
Clerks of House and Senate to certify bills carrying....	106	383
Criminal charges .....	14	335
Delinquent list. publication .....	30	342
Drawing .....	103	380
Droop Mountain bottlefield .....	62	350
{	71	353
{	86	356
Educational institutions .....	71-a	378
{	85-a	379
Emergency (on order of the Governor) .....	32	343
Governor's mansion and grounds .....	23	339

	SEC.	PAGE
	38	346
	45	348
Hospitals and sanitariums .....	38-a-45-a	377
	K-2-K-4	379
crippled children .....	64	350
hospital service .....	65	351
treatment of tuberculosis .....	66	351
Industrial schools .....	46-49	348
	46-a-49-a	377
infectious diseases .....	67	352
Insurance on public buildings .....	70	353
Legislative department:		
House of Delegates .....	89	362
miscellaneous .....	89	363
printing and stationery .....	90	365
salaries of members .....	91	365
Senate .....	88	357
miscellaneous .....	88	359
Miscellaneous .....	92	366
Monument, to Union soldiers and sailors.....	107	383
National cemetery, Grafton .....	36	346
Per diem, boards and commissions .....	103	381
Point Pleasant battle monument .....	57	349
	57-a	378
	54	349
Printing, binding and stationery .....	54-a	378
	104	381
Rumseyan society .....	59	349
Salaries of elective and appointive state officers .....	4	331
of the judiciary .....	4	331
Salaries and expenses, executive department,		
attorney general's office .....	5	331
auditor's office .....	6	332
	6-a	375
board of children's guardians .....	56	349
	56-a	378
board of pharmacy .....	60	349
bureau of labor and department of weights and measures .....	19	338
bureau of negro welfare and statistics.....	27	341
commissioner of banking .....	18	338
commissioner of prohibition .....	16	337
department of agriculture .....	12	334
	12-a	376
department of archives and history .....	20	339
department of education .....	94	368
general school fund .....	28	341
department of mines .....	17	337

INDEX TO ACTS

v

	SEC.	PAGE
department of public safety .....	69	352
forest, game and fish commission .....	K-1	376
geological survey .....	55	349
governor's office.....	55-a	378
judiciary department,	7	333
circuit courts .....	35	340
supreme court of appeals .....	34	345
militia .....	25	340
pardon attorney's office .....	25-a	376
public service commission .....	8	333
secretary of state's office .....	98	374
state board of control .....	98-a	376
state health department .....	11	334
state law library .....	37	346
state road commission .....	37-a	377
state sinking fund commission .....	21	339
state tax commissioner's office .....	21-a	376
state law library .....	13	335
state road commission .....	96	372
state sinking fund commission .....	26	341
state tax commissioner's office .....	15	335
treasurer's office .....	10	333
workmen's compensation commission .....	100	374
State board of embalmers .....	K-7	380
State board of examiners for nurses .....	K-5	380
State board of examiners in optometry .....	K-8	380
State homes,	52	348
aged and infirm colored men and women .....	52-a	378
children's home .....	50	348
colored orphans' home.....	50-a	378
Florence Crittenden home .....	51	348
Veterinary examining board .....	51-a	378
West Virginia penitentiary .....	61	349
Wetzel county memorial tablet .....	K-6	380
World War relief .....	68	352
World War relief .....	68-a	378
Wetzel county memorial tablet .....	63	350
World War relief .....	29	342

ARSON, PUNISHMENT:

Attempts to commit; penalty .....	5	182
what constitutes .....	5	182
Burning dwelling or out buildings; penalty .....	1	181
other property .....	3	181
store houses and other buildings; penalty.....	2	181
to defraud insurer; penalty .....	4	182

	SEC.	PAGE
<b>ASEXUALIZATION:</b>		
<i>(See MENTAL DEFECTIVES)</i> .....	—	3
<b>ASSESSMENT:</b>		
<i>(See BANKS, TRUST COMPANIES, ETC.)</i> .....	—	101
<i>(See TAXATION)</i> .....		203, 205
<b>ATTORNEY GENERAL:</b>		
<i>(See BANKING INSTITUTIONS)</i> .....	} 30	139
	} 35	146
<i>(See STATE WATER COMMISSION)</i> .....	7	77
<i>(See WORKMENS COMPENSATION)</i> .....	1 (a)	274
<b>AUDITOR:</b>		
<i>(See DUPLICATE ROAD BONDS)</i> .....	—	199
<i>(See ERRONEOUS ASSESSMENTS)</i> .....	—	203
<i>(See PAVING AND SEWERING)</i> .....	—	253
<i>(See ROAD BONDS)</i> .....	—	191
<i>(See WATER POWER)</i> .....	6-c	226
<b>BANKING INSTITUTIONS:</b>		
Approval of commissioner of banking .....	2	110
As fiduciary, oath and security .....	6	114
Branch banks prohibited .....	5	113
Capital stock, amount .....	2	110
amount may invest in furniture and fixtures.....	2	110
assessment when impaired .....	18	128
failure to pay .....	18	128
of trust company, amount .....	2	110
par value .....	2	110
sale .....	2	110
when to be paid in .....	2	110
when unlawful to purchase .....	9	117
Check, collection of .....	23	133
certifying falsely, penalty .....	23	134
damages for non-payment .....	23	134
forged .....	23	134
if presented twelve months .....	23	133
when countermanded .....	23	133
Certificate of authority, how obtained .....	13	120
domestic corporations .....	13	120
fee .....	13	122
foreign corporations .....	13	121
revocation .....	} 14	123
	} 30	139
Consolidations or sales .....	31	140
Deposits. of minor .....	24	134
adverse claim .....	24	135
in trust .....	24	135
joint .....	24	136

INDEX TO ACTS

vii

	SEC.	PAGE
not to receive when insolvent .....	24	136
Directors, number, qualification and oath .....	7	115
removal .....	14	122
vacancy .....	7	116
Dividends, when declared .....	22	132
determining value of ..stock for .....	21	131
Embezzlement and other offenses, penalty .....	29	137
Examinations by department of banking .....	14	123
duties of officers .....	14	124
fees .....	14	125
penalty .....	14	124
when doubtful assets disclosed .....	15	126
when errors disclosed .....	15	125
False entries and statements, penalty .....	27	137
False statements concerning, penalty .....	26	137
Federal reserve bank, when member of .....	20	129
Fiscal year .....	14	123
Holidays and Sundays, acts valid .....	25	136
Liquidation .....	30	139
reorganization .....	31	139
Loans, limitations .....	21	131
expense of making .....	21	132
on shares of capital stock .....	21	132
receiving consideration for; penalty .....	28	137
to bank official or employee .....	21	132
Notary Public, powers if stockholder, etc. ....	11	118
Offenses and penalties .....	35	145
duty of attorney general .....	35	146
Officers, oath and bond .....	8	117
Powers, generally .....	3	111
future payments .....	3	111
national banks may exercise .....	4	113
of trust companies, additional .....	4	112
requirement to obtain .....	4	113
penalty for violation .....	4	113
to hold real estate .....	3	111
Receiver, powers and duties .....	32	141
construction of act .....	34	145
disbursement .....	32	143
general corporation laws to govern .....	33	145
salary and bond .....	32	144
suits by .....	32	142
Rediscounting and borrowing by .....	17	128
restrictions on .....	17	128
Reports to commissioner of banking .....	16	126
failure to make, penalty .....	16	127
publication .....	16	127
Reserve fund.....	19	129

	SEC.	PAGE
Stockholders, district of .....	9	117
annual meeting .....	7	116
assessment, failure to pay .....	18	128
called meeting .....	15	126
liability .....	9	117
report by .....	7	116
to appoint examining committee .....	7	116
suits against by receiver .....	32	142
Supervision by commissioner of banking .....	14	122
books and records .....	14	123
employees, members and salaries .....	14	122
Supervision of, by department of banking .....	13	120
Suretyship or pledging of assets prohibited .....	5	114
Trust company, liquidation .....	6	115
Trust funds kept separate .....	6	114
Unlawful use of names or doing banking business.....	1	109
What term includes .....	1	109
When may engage in business .....	1	110
Who may not engage in business .....	10	118
penalty .....	10	118
<b>BANKS, ASSESSMENT OF:</b>		
Real estate; how assessed .....	79	103
deduction when owned by separate corporation.....	79	103
Shares of stock assessed at actual value .....	79	102
collection of taxes on .....	79	102
deduction allowed holder .....	79	102
how ascertained .....	79	102
<b>BARKER RIDGE COLORED HIGH SCHOOL:</b>		
Establishment authorized .....	1	414
Laws governing .....	2	414
<b>BLUE SKY LAW:</b>		
(See SECURITIES) .....	—	295
<b>BOARD OF PUBLIC WORKS:</b>		
(See ROAD BONDS) .....	7	191
Special levy main unit, capitol .....	1	78
To appoint members boards of review and equalization..	18	207
<b>BOARDS OF REVIEW AND EQUALIZATION:</b>		
Appeals from .....	18	210
Assessments, relief from .....	18	209
general increase; notice .....	18	209
increased, notice to property owner .....	18	209
Bond .....	18	207
Duties .....	18	208
Endorsement of property books .....	18	210

INDEX TO ACTS

ix

	SEC.	PAGE
Meetings; notice by clerk .....	18	209
assessors to attend .....	18	208
expense of .....	18	209
Number and qualifications .....	18	207
Salary .....	18	207
Terms .....	18	207
 <b>BONDS:</b>		
Contractor on public buildings .....	12	294
amount, conditions and surety .....	12	294
 <b>BRAXTON COUNTY:</b>		
Existing indebtedness, special levy for .....	1	445
how expended .....	3	446
number years laid .....	2	446
 <b>BRIDGE COMMISSION:</b>		
(See STATE BRIDGE COMMISSION) .....	—	14
 <b>BROOKE COUNTY:</b>		
County court to reinter certain dead .....	—	482
Salary circuit clerk .....	1	467
 <b>BRUSH FORK HIGH SCHOOL:</b>		
Board of education to maintain .....	2	414
Validated .....	1	414
 <b>BUDGET:</b>		
(See CONSTITUTIONAL AMENDMENT) .....	—	94
 <b>BUTLER DISTRICT HIGH SCHOOL:</b>		
Board of directors; qualifications and terms .....	2	420
corporate powers .....	3	420
officers .....	2	420
powers and duties .....	4	420
vacancies .....	2	420
Effective date .....	11	421
Established .....	1	419
Exemption from county high school levy .....	9	421
Laws governing .....	5	421
Levy for .....	7	421
how collected and disbursed .....	8	421
Referendum not required .....	10	421
Qualifications for admission .....	6	421
 <b>CABELL COUNTY:</b>		
Domestic relations court, terms .....	8	461
 <b>CALHOUN COUNTY:</b>		
Assistant for prosecuting attorney .....	1	469

CAPITOL BUILDING, MAIN UNIT:		SEC.	PAGE
Building fund .....	2	78	
appropriation of .....	3	79	
how disbursed .....	2	79	
Contract for erection .....	4	79	
limitation .....	3	79	
Levy for .....	1	78	
 CEMETERIES:			
Endowment fund .....	1	297	
how created.....	2	297	
how expended.....	1	297	
investment of.....	3	298	
approval of, by trustees.....	3	298	
trustees for.....	4	298	
annual report.....	3	298	
bond .....	4	298	
vacancy .....	4	299	
 CHARLESTON INDEPENDENT SCHOOL DISTRICT:			
Boundaries .....	1	336	
special election.....	1	402	
form of ballot.....	2	402	
notice .....	2	402	
result .....	2	402	
Definitions .....	4	403	
Elections .....	3	385	
registration .....	3	385	
voting precincts.....	3	385	
Employees' retirement pension fund.....	1	403	
how constituted.....	2	403	
purpose .....	3	403	
 CHARLES TOWN DISTRICT:			
School bonds validated.....	1	393	
form .....	3	393	
levy .....	4	395	
sale, number and interest.....	2	393	
 CHECKS AND DRAFTS:			
(See BANKING INSTITUTIONS).....	23	133	
Fraudulent issue or uttering.....	34	175	
by officer or agent of corporation.....	34	176	
form of indictment.....	34	177	
penalties .....	34	176	
venue .....	34	176	
what constitutes.....	34	176	
when no presumption of fraud.....	34	176	

INDEX TO ACTS

CIRCUIT COURT JUDGES:		SEC.	PAGE
Additional salary in certain circuits.....	1	201	
how pro rated.....	2	201	
General expenses; how paid.....	1-d	203	
itemized statement.....	1-d	203	
Office rent; when and how paid.....	1-d	202	
Stenographic fees; how paid.....	1-d	202	
in first judicial circuit.....	1-d	203	

CLAY COUNTY:

Deputy sheriffs, number and salary.....	1	472
High school, dormitory fund transferred.....	1	410

COAL:

(See OI' AND GAS WELLS).....	—	311
------------------------------	---	-----

CODE AMENDED:

CH.	SEC.	CODE	SEC.	PAGE
4	9	1923.....	9	325
11	1-d	1923.....	1-d	202
15	59	1923.....	59	308
15-o	20	1923.....	20	245
29	4, 37	1923.....	4, 37	254
29	18	1923.....	18	207
29	129	1923.....	129	205
32	100	1923.....	100	268
33	1, 2, 2-a, 6	1923.....	1, 2, 2-a, 6	210
34	76-a	1923.....	1-14	263
39	9	1923.....	9, 9-a	291
45	82	1923.....	82(a) (b) <sup>y</sup>	164
45	150	1923.....	150	26
47	16, 17	1923.....	16, 17	252
53	38	1923.....	38	309
55	.....	1923.....	13-a	147
66	5	1923.....	5	148
75	12	1923.....	12	294
86	14	1923.....	14, 15	170
112	1-b	1923.....	1-b	460
116	23	1923.....	23	160
125	.....	1923.....	1	168
137	.....	1923.....	44-a	262
145	28	1923.....	28-d	267
149	16	1923.....	16	180

CODE REPEALED:

CH.	SEC.	CODE	SEC.	PAGE
50	37	1923.....	—	103
54	81-a(16), 81-d	1923.....	—	103

CH.	SEC.	ACTS	SEC.	PAGE
54-c	1-8	1923 .....	—	103
86	15	1923 .....	14, 15	170
145	1-10	1923 .....	1-5	180
<b>COLLEGE OF AGRICULTURE:</b>				
		(See GARDEN PRODUCTS) .....	—	186
<b>COMMERCIAL FOODSTUFFS:</b>				
		Analysis .....	7	189
		publication .....	7	189
		Card showing analysis .....	6	189
		Certificate of registration .....	3	188
		cancellation .....	3	188
		expiration .....	3	188
		issuance and fee .....	3	188
		one registration sufficient .....	5	189
		when refused; by whom .....	4	188
		Commissioner of agriculture; powers .....	8	190
		duties, when act violated .....	9	190
		Crude proteins, fat and fiber; how determined .....	2	187
		Definition .....	1	187
		Labels; what to show .....	2	187
		Penalty .....	10	190
		Tankage, meat meal, etc.; regulations for sale .....	3	188
		labels .....	3	188
<b>COMMISSIONER IN CHANCERY:</b>				
		Presumption as to transcripts of judgments .....	11	174
		Proof of debts before, by affidavit .....	11	174
		procedure when counter affidavit filed .....	11	174
<b>COMMISSIONER OF ACCOUNTS:</b>				
		Proof of debts before, by affidavit .....	11	174
<b>COMMISSIONER OF AGRICULTURE:</b>				
		(See COMMERCIAL FEEDSTUFFS) .....	—	187
		(See FRUITS AND VEGETABLES) .....	—	183
<b>COMMISSIONER OF BANKING:</b>				
		(SEE BANKING INSTITUTIONS) .....	—	103
<b>COMMISSIONER OF INSURANCE:</b>				
		(See ANNUITY CONTRACTS) .....	—	263
<b>COMMISSIONER OF LABOR:</b>				
		(See LABOR) .....	59	309
		(See STATE EMPLOYMENT BUREAU) .....	—	23

	SEC.	PAGE
COMMISSIONER OF PROHIBITION:		
(See INTOXICATING LIQUORS).....	—	255
COMMON CARRIERS, TRANSPORTATION BY:		
Free transportation; who may receive.....	20	246
for full time religious workers.....	20	246
COMMUNITY DEMONSTRATION:		
(See GARDEN PRODUCTS).....	—	186
CONSTITUTIONAL AMENDMENTS:		
Budget, amending section fifty-one of article six.....	1	94
form of ballot.....	3	99
name .....	2	99
publication by governor.....	6	101
result of election, certified.....	4	99
proclaimed by governor.....	5	101
Circuit court, amending section ten of article eight.....	1	91
form of ballot.....	3	92
name .....	2	92
publication by governor.....	5	94
result of election, certified.....	6	94
proclaimed by governor.....	5	94
Lieutenant governor and inaugural dates; amending sec- tions one and sixteen of article seven.....	1	87
form of ballot.....	3	88
name .....	2	88
publication by governor.....	6	90
result of election, certified.....	4	88
proclaimed by governor.....	5	90
Probate amendment, amending article eight by adding section thirty-one.....	1	83
form of ballot.....	3	84
name .....	2	84
publication by governor.....	6	86
result of election, certified.....	4	84
proclaimed by governor.....	5	86
CONDITIONAL SALES:		
(See SALES).....	—	299
CONTRACTORS, BONDS OF:		
(See BONDS).....	—	294
CONVICTS, EMPLOYMENT OF:		
By road commission, county court, etc.....	1	200
Contract for approval of.....	1	200
rules and regulations .....	1	200

	SEC.	PAGE
<b>CORPORATIONS:</b>		
Duplicate stock certificates.....	38	310
<b>COUNTY AND DISTRICT PROPERTY:</b>		
(See SALES).....	—	300
<b>COUNTY COMMISSIONERS:</b>		
Salaries .....	1	327
Vacancies in office.....	9	326
<b>COUNTY COURT:</b>		
(See ASSESSMENTS).....	—	203
(See CONTRACTORS, BONDS OF).....	—	294
(See CIRCUIT COURT JUDGES).....	—	201
Payments, into state treasury.....	1	24
to certain institutions.....	2	26
	1	25
<b>CRIMES AND PUNISHMENT:</b>		
(See AIRPORTS).....	—	251, 252
(See ALIENS) (hunting, etc.).....	—	40, 45
(See APPROPRIATIONS).....	103	381
(See ANNUITY CONTRACTS AND BONDS).....	—	266, 267
(See ARSON).....	—	181
	—	103
	—	113
(See BANKING INSTITUTIONS).....	—	118
	—	124
	—	136
	—	137
	—	145
(See CHECKS AND DRAFTS).....	34	176
(See COMMERCIAL FEEDSTUFFS).....	10	190
(See DENTISTRY).....	21	291
(See DOGS).....	52	49
(See FRUITS AND VEGETABLES).....	5	185
(See GAME, FISH AND FORESTRY).....	—	34
(See INTOXICATING LIQUORS).....	—	255
(See JUNK DEALERS).....	100	269
(See LIQUID FUELS AND OILS).....	7	179
(See OIL AND GAS WELLS).....	14	325
(See RATING BUREAU).....	76-b(16)	156
(See SABBATH).....	16	180
(See STATE EMPLOYMENT BUREAU).....	15	31
(See STATE TREASURY).....	3	11
(See TELEPHONES).....	1	177
(See TREES AND SHRUBBERY).....	4	247
(See WATER POWER).....	15	243

INDEX TO ACTS

xv

	SEC.	PAGE
DEATH, PRESUMPTION OF:		
(See ESTATES).....	—	171

DENTISTRY:

Board of dental examiners; qualifications, terms.....	29-a(1)	283
annual report.....	29-a(3)	284
appeals from decision.....	29-a(1)	283
certificate to practitioner moving from state.....	29-a(11)	288
examination by; fee.....	29-a(3)	284
license by; to dentists from other states.....	29-a(10)	288
temporary; fee.....	29-a(10)	288
members, duties and qualifications.....	29-a(1)	283
organization and meetings.....	29-a(1)	283
per diem.....	20-a(3)	284
power of, to revoke license.....	29-a(8)	286
present members.....	29-a(1)	283
secretary-treasurer; bond.....	29-a(2)	284
duties and compensation.....	29-a(3)	284
examination papers filed with.....	29-a(7)	285
Definition .....	29-a(5)	285
Dental hygiene; who deemed practicing.....	29-a(5)	285
examination .....	29-a(15)	289
fee .....	29-a(15)	289
to be practical and theoretical.....	29-a(16)	290
when issued without.....	29-a(17)	290
license to practice; when refused, by whom.....	29-a(7)	286
revocation .....	29-a(14)	289
qualifications and examination of applicants.....	29-a(7)	285
Dentists; assistants.....	29-a(14)	289
druggists to fill prescriptions.....	29-a(19)	291
to prescribe drugs, perform operations, etc.....	20-a(19)	291
Fraudulent filing of diploma or license; penalty.....	29-a(18)	290
License to practice; exceptions.....	29-a(4)	284
fee .....	29-a(12)	289
to be displayed in office.....	29-a(9)	287
Penalties .....	29-a(21)	291
Prosecuting attorney; duties in violation of act.....	29-a(20)	291
Trade name prohibited in practice of.....	29-a(13)	283
Who deemed practicing; exceptions.....	29-a(5)	285

DEPARTMENT OF BANKING:

Commissioner of banking, appointment.....	12	119
deputy and other assistants appointed by.....	12	119
qualifications and salary.....	12	119
discretion as to records of office.....	12	120
duties, supervisory.....	14	122
annual report to governor.....	14	125
examination of banking institutions.....	14	123

	SEC.	PAGE
fee .....	14	124
may appoint receiver.....	32	141
revocation of certificate of authority.....	14	123
	30	139
How constituted.....	12	119
Oaths and bonds.....	12	120
Office and records .....	12	120
Supervisor of banking institutions.....	13	120
 DEPARTMENTS OF MINES:		
Chief of, qualifications and salary.....	4	82
orders, as to safety or electric lamps.....	20	80
permission, to use electric haulage locomotives.....	36	81
to designate where electric coal cutting machines may be used.....	37	81
inspectors at large.....	7-a	80
to approve methods for allaying coal dust.....	14	80
 DODDRIDGE COUNTY HIGH SCHOOL:		
Board of directors; how constituted.....	2	416
corporate powers.....	3	416
levies .....	5	417
districts exempt.....	6	417
meetings and compensation.....	4	416
officers and duties.....	2	416
vacancy .....	2	416
Location .....	1	415
Special election.....	7	418
form of ballot.....	7	418
 DOGS:		
Chasing or killing sheep, may be killed.....	49	48
owner, liable for damage.....	50	48
duty to kill.....	51	48
Officer to kill, when.....	51	48
penalties .....	52	48
 DUNBAR, CITY OF:		
Sewers; special levy.....	1	436
contract .....	2	436
payment .....	2	436
right-of-way .....	2	436
 DUPLICATE STOCK CERTIFICATES:		
(See CORPORATIONS).....	—	309
 EIGHTH JUDICIAL CIRCUIT:		
Terms of court.....	1-h	461

INDEX TO ACTS

xvii

	SEC.	PAGE
<b>EMPLOYMENT BUREAU:</b>		
(See STATE EMPLOYMENT BUREAU).....	—	28
<b>ENDOWMENT FUND:</b>		
(See CEMETERIES).....	—	297
<b>ESTATES:</b>		
Settlement, of supposed decedents.....	14	171
proof as to presumption of death.....	14	171
order, on hearing.....	14	171
<b>EXIT DOORS:</b>		
(See STATE FIRE MARSHAL).....	—	310
<b>FETTERMAN SCHOOL DISTRICT:</b>		
Transfer of funds.....	1	410
<b>FIFTH JUDICIAL CIRCUIT:</b>		
Terms of court.....	1	459
<b>FIRST AID EQUIPMENT:</b>		
(See LABOR).....	—	309
<b>FLORA AND FAUNA:</b>		
(See TREES, SHRUBBERY, ETC.).....	—	247
<b>FOURTEENTH JUDICIAL CIRCUIT:</b>		
Terms of court.....	2	459
<b>FRUITS AND VEGETABLES, PACKING AND GRADING:</b>		
Act severable .....	8	185
Enforcement of provisions.....	3	184
Inspector's certificates as evidence.....	7	185
Marking of closed packages.....	3	184
Penalty .....	5	185
Standard grades; establishment.....	1	183
consultation committee .....	1	183
When packages deemed for sale.....	4	184
When prosecution unlawful.....	6	185
<b>GAME, FISH AND FORESTRY:</b>		
Alien, not to hunt, fish or carry firearms.....	19	40
Automobiles, etc., unlawful to kill game from.....	43	43
Bear trap, who may use.....	47	48
Bounties for wild non-game animals.....	30	44
Commission, to control department of.....	2	35
chairman .....	3	56
chief and other game protectors		
authority, power and duties.....	12, 15, 16	38, 39
sheriffs, state police, etc., to have.....	14	33
interference with, penalty.....	123	72

GAME, FISH AND FORESTRY (Continued)	SEC.	PAGE
license to carry revolver.....	13	38
number, term and compensation.....	10	37
oath .....	11	38
divisions .....	1	34
members, duties and terms.....	2	35
oaths and bonds.....	3	35
traveling and other expenses.....	4	35
office, supplies and clerks.....	5	36
powers, general.....	7	36
open seasons and bag limits.....	8	37
warrants .....	120	72
records and reports .....	9	37
rewards .....	121	72
rules and regulations.....	6	36
Ferrets, unlawful to own.....	44	48
Forests, protection.....	99	65
chief forester, qualifications and salary.....	99	65
oath .....	100	65
federal cooperation.....	106	68
appropriation .....	106	68
fires, failure to extinguish, penalty.....	103	66
duties of railways.....	104	67
fighting, expense.....	102	66
recovery by commission.....	105	68
statement .....	102	66
liability of owner.....	113, 116	70
setting out, penalty.....	103	67
local protectors, per diem.....	99	100
powers and duties.....	101	61
refusal to assist, penalty.....	101	66
patrols and lookout stations.....	107	68
by land owners .....	108	69
failure .....	109	69
residence as protection.....	110	69
cost .....	} 107	68
	} 111	69
penalties .....	124	72
jurisdiction .....	122	72
purchase by commission.....	117	71
timber land, definition.....	112	70
Game animals, designated.....	32	45
closed seasons.....	45	47
deer .....	34, 35	45
bag limit.....	35	46
counties excepted.....	35	46
fawns and does.....	35	46
kept in park.....	35	46

	SEC.	PAGE
report of killing.....	35	46
penalties .....	35	46
unlawful methods of hunting.....	35	46
elk .....	32	45
hunting with dogs.....	33	45
taking by bait or trap.....	33	45
penalty .....	33	45
muskrat .....	42	47
opossum .....	39	47
otter .....	39	47
rabbit .....	36	47
bag limit.....	36	47
exceptions .....	36	47
raccoon .....	38	47
skunk .....	38	47
squirrel .....	37	47
bag limit.....	37	47
petition for opening season early.....	37	47
penalties .....	48	48
snares, permission to use.....	47	48
spot or jack light.....	43	47
trees, cutting down, when unlawful.....	43	48
Game birds or fowls, designated.....	53	50
closed season.....	58	51
quail .....	58	51
bag limit.....	58	51
ruffed grouse.....	57	51
bag limit.....	57	51
wild duck.....	54	50
bag limit .....	56	51
wild turkey.....	56	50
bag limit .....	56	51
report to commission.....	56	51
night hunting.....	56	50
Hungarian partridge, unlawful to kill.....	58	51
Penalties .....	64	52
Snares, bait, etc., when prohibited.....	61	51
Song or insectivorous birds, unlawful to kill.....	60	51
Wild birds, eggs and nest.....	62	51
killing or selling unlawful.....	63	52
exceptions .....	63	52
Game fish and frogs, designated.....	65	52
closed season.....	52	53
bass .....	66 (a)	53
exceptions .....	66 (a)	53
daily catch.....	67	53
length .....	65	52

	SEC.	PAGE
frogs .....	66(i)	53
jack salmon or jack fish.....	66(e)	53
muscalonge .....	66(e)	53
length .....	65	52
perch .....	66(h)	53
length .....	65	52
pickerel .....	66(g)	53
length .....	65	52
pike, wall eyed.....	66(e)	53
length .....	65	52
not wall eyed.....	66(f)	53
salmon, white and landlocked.....	66(c) (d)	53
trout .....	66(b)	53
daily catch.....	66(b)	53
length .....	65	52
dynamite, etc., use of unlawful.....	68	53
draining, when unlawful .....	68	53
gigging, when unlawful.....	68	53
hatcheries and feeding stations.....	70	54
ownership vested in state.....	17	39
rife, etc., when unlawful to use.....	68	53
seines, unlawful.....	68	53
exceptions .....	68	53
Hire, hunting or fishing for.....	27	43
Hotels, etc., serving at.....	23	44
License, hunting and fishing.....	81	58
carrying uncased gun.....	89	61
change or transfer.....	86	50
duties of county clerk.....	84	59
exhibiting .....	87, 88	60
fees, expenditures.....	91, 92	61, 62
how procured.....	83	59
non-resident, fees.....	82	59
resident, state wide fee.....	82	58
big game, fee.....	82	58
who must obtain.....	81	58
Nets, seines and fish traps, destruction.....	21	40
Permission to hunt.....	22	40
land owner may arrest.....	22	41
penalty .....	22	41
Propogation and distribution by.....	23	41
permits .....	23	41
license .....	72	55
division of fees.....	107	68
rights and duties.....	76, 79	57
provisions concerning.....	73, 79	55, 57
Purchase, unlawful.....	26	43

INDEX TO ACTS

xxi

	SEC.	PAGE
Red fox, closed season.....	29	44
exceptions .....	29	44
penalty .....	29	44
Refuges and public shooting grounds.....	94	63
acreage .....	96	64
apportionment between.....	95	63
fish and frogs.....	97	65
how marked.....	95	64
hunting in.....	95	63
investigation of water sheds.....	117	71
leasing .....	95	64
protection of.....	118	71
purchase by commission.....	117	71
resident caretaker.....	95	64
Sale unlawful.....	26	43
Seasons, open and closed, defined.....	18	40
changing or suspending.....	24	42
penalty .....	24	42
Transportation out of state unlawful.....	25	43
exceptions .....	25	43
 <b>GARDEN PRODUCTS:</b>		
Community demonstration in; purpose.....	1	186
appropriations for; how expended.....	3	183
how administered.....	3	186
location, buildings and equipment.....	2	186
 <b>GLEN ROGERS HIGH SCHOOL:</b>		
Maintenance and control.....	2	411
Validated .....	1	411
 <b>GLENWOOD HIGH SCHOOL:</b>		
Maintenance and control.....	2	413
Validated .....	1	413
 <b>GOVERNOR:</b>		
(See CAPITOL BUILDING, MAIN UNIT).....	—	78
(See CONSTITUTIONAL AMENDMENTS).....	83	94
(See CONVICTS, EMPLOYMENT OF).....	—	209
(See ROAD BONDS).....	—	191
Appointments, appraisers water power projects.....	3(e)	227
commissioner of banking.....	12	119
game, fish and forestry commission.....	2	35
state bridge commission.....	2	16
state library commission.....	1	8
county court, filling vacancy.....	9	326
Game refuges, etc., consent to purchase.....	117	71

	SEC.	PAGE
Reports to, of special revenues.....	2	11
Water power licenses, vote on.....	3(e) (1)	219
<b>GRAFTON, CITY OF:</b>		
Power to sell or mortgage city property, limited.....	7-a	479
Publication of financial statement.....	1	474
<b>GRAFTON INDEPENDENT SCHOOL DISTRICT:</b>		
Boundaries .....	1	413
<b>GREENBRIER COUNTY:</b>		
Court House and jail, special levy.....	1	442
new site and buildings.....	1	442
contract for.....	2	443
permanent repairs.....	1	442
sales of present site and buildings.....	2	443
special bond election.....	2	443
<b>GUYAN VALLEY HIGH SCHOOL:</b>		
Board of education; how constituted.....	1	386
corporate power.....	4	387
contracts by Sherdian district board.....	4	388
levies .....	5	388
exemptions .....	5	388
purchase of lots.....	5	388
special building fund levy, Sherdian district.....	5	388
oath, vacancy.....	11	391
organization and meetings.....	2	387
president, duties.....	3	387
salary .....	9	390
secretary, compensation and duties.....	8	390
to elect principal.....	10	390
qualifications and duties.....	10	390
to provide equipment and janitor.....	6	389
to provide transportation for pupils.....	7	389
allowance in lieu of.....	7	389
to provide summer school.....	9	390
Entrance requirements.....	9	390
Establishment and location.....	1	386
When general school law applies.....	13	392
Withdrawal, special election.....	12	391
<b>HAMPSHIRE COUNTY:</b>		
Salary clerk circuit court.....	1	470
Stenographer or clerical help of prosecuting attorney.....	1	469
<b>HANCOCK COUNTY:</b>		
Special county levies.....	1	433
limitation on.....	2	433

	SEC.	PAGE
<b>HARRISON COUNTY:</b>		
Court house, bonds for.....	8	446
advisory committee.....	8	446
powers .....	9	447
Salary judge of criminal court.....	4	468
<b>HIGH SCHOOLS:</b>		
(See SCHOOLS, STATE).....	—	164
Barkers Ridge colored high school, Wyoming county.....	—	414
Brush Fork high school, Mercer county.....	—	414
Butler district high school, Wayne county.....	—	420
Clay county high school.....	—	410
Doddridge county high school.....	—	415
Glen Rogers high school, Wyoming county.....	—	411
Glenwood high school, Mercer county.....	—	413
Guyan Valley high school, Lincoln county.....	—	386
Mineral county colored high school.....	—	422
Nicholas county high school.....	—	424
Sardis district high schools, Harrison county.....	—	425
Slab Fork colored high school, Wyoming county.....	—	415
Tyler county high school.....	—	412
<b>HOGS RUNNING AT LARGE:</b>		
Property damage by; recovery.....	1	267
how collected.....	1	263
owner of, to retain hogs.....	1	263
Unlawful to permit.....	1	267
<b>HUSBAND AND WIFE:</b>		
(See INSURANCE).....	—	148
<b>INFANTS' CLAIMS FOR PERSONAL INJURIES:</b>		
Other modes of settlement, permitted.....	1	170
Release .....	1	169
form .....	1	170
hearing and action on.....	1	169
petition for.....	1	169
<b>INHERITANCE TAX:</b>		
(See TAXATION).....	—	210
<b>INSURANCE COMMISSIONER:</b>		
(See ANNUITY CONTRACTS AND BONDS).....	—	263
<b>INSURANCE, FIRE:</b>		
(See RATING BUREAUS).....	—	150
When two-thirds and similar value clauses valid.....	13-a	143
<b>INSURANCE, LIFE:</b>		
Married woman may insure life of husband.....	5	148
discharge of company.....	4 5	149

	SEC.	PAGE
rights of defrauded creditors.....	5	149
To whom policy to be paid.....	1	149
discharge of company.....	1	150
rights of defrauded creditors.....	1	149
<b>INTOXICATING LIQUORS:</b>		
Bond, felony charge.....	37	261
Fee for purchase or sale.....	4(c)	256
by purchaser in wholesale quantities.....	4(c)	256
ethyl alcohol.....	4(b)	256
registering still; exceptions.....	4(d)	256
Fermenting substances, "mash", etc., unlawful.....	37	259
possession of, penalty.....	37	260
form of indictment.....	37	260
second offense; penalty.....	36	260
Home brew; definition.....	37	260
possession; penalty.....	37	260
second offense; penalty.....	37	261
Intoxication, penalty.....	41	261
duty of officer.....	41	261
while driving motor vehicle; penalty.....	41	261
Manufacturing; non-intoxicants.....	4	255
pure grain alcohol.....	4	256
sale of by druggists.....	4	256
sacramental wine.....	4	256
no fee for permit.....	4(d)	257
Medication and sale of alcohol.....	37	258
Moonshine still; definition.....	37	258
destruction.....	41	261
indictment for owning; form.....	37	259
unlawful to possess.....	37	258
Permits; for sale, transportation, etc.....	4	256
fee.....	4(a)	256
to physicians, etc.....	4	256
when issued; expiration.....	4(a)	256
Moonshine liquor, possession; penalty.....	37	259
Report to road commission.....	41	262
Sale; by non-resident, etc.....	31-b	258
mixtures, compounds, etc.....	31-b	258
penalty.....	31-b	258
Searches and seizures; procedure.....	37	261
Transportation; by common carriers, etc.; penalty.....	31	257
persons, firm, etc., of malt, etc.....	31-a	257
penalty.....	31-a	257
<b>JUDGES:</b>		
(See CIRCUIT JUDGES).....	—	201, 203
Supreme court of appeals, retirement pay.....	1	1

INDEX TO ACTS

XXV

	SEC.	PAGE
<b>JUDICIAL CIRCUITS:</b>		
Additional compensation for judge		
Ninth .....	1	470
Sixteenth .....	1	464
Twenty-third .....	1	466
Stenographer for judge		
Third .....	1	464
Terms in		
Second .....	1-h	460
Fifth .....	1	459
Seventh .....	1-g	458
Eighth .....	1-h	461
Fourteenth .....	2	459
Twenty-fourth .....	1-h	455
<b>JUDGMENTS:</b>		
(See MOTION FOR JUDGMENT.....)	—	172
<b>JUNK DEALERS:</b>		
Copper wire, etc., purchase by; when unlawful.....	100	269
bill of sale or receipt.....	100	269
list of.....	100	269
transportation .....	100	269
by non-resident dealer .....	100	269
License for.....	100	269
agents of; list of to county clerk.....	100	268
Penalty for violations.....	100	269
<b>JURORS, PETIT:</b>		
Fees; list of by clerk.....	23	161
taxation .....	23	160
Meals, when furnished by sheriff.....	23	160
how paid.....	23	160
Per diem and mileage, how paid.....	23	160
Who required to serve.....	1	162
when ineligible.....	3	163
<b>JURY COMMISSIONERS:</b>		
Appointment; duties; qualifications; term; removal.....	3	162
For courts of limited jurisdiction.....	3	163
Oath .....	3	163
To list jurors.....	3	162
Vacancies .....	3	162
<b>LABOR:</b>		
First aid equipment.....	59	308
Protection of workers.....	59	309
Regulations for scaffolding, etc.....	59	309
Use or repair of defective machinery.....	59	309

	SEC.	PAGE
<b>LEGISLATURE:</b>		
Salaries of members, when payable.....	2	1
<b>LEWIS COUNTY:</b>		
Stenographer for prosecuting attorney.....	1	467
<b>LIBRARY COMMISSION:</b>		
(See STATE LIBRARY COMMISSION).....	—	8
<b>LIEUTENANT GOVERNOR:</b>		
(See CONSTITUTIONAL AMENDMENT).....	—	86
<b>LINCOLN COUNTY:</b>		
Salary clerk of circuit court.....	1	462
<b>LIQUID FUELS AND OILS:</b>		
Fraudulent sale of.....	1	173
Sale under false trade mark prohibited.....	4	178
unlawful to assist in.....	5	179
Tanks, containers, etc., unlawful use of.....	2	173
illegal use of trade names, etc., on.....	3	178
Trade name, how shown.....	6	179
Penalties .....	7	179
<b>LOANS:</b>		
Of three hundred dollars or less.....	12	146
interest, rate.....	12	146
no service or other charge for.....	12	146
when contract of, void.....	12	147
Of more than three hundred dollars.....	12	147
interest rate.....	12	147
<b>MACHINERY:</b>		
(See LABOR).....	—	309
<b>MARSHALL COUNTY:</b>		
Special road and bridge levy.....	1	430
election .....	1	430
form of ballot.....	5	431
how conducted.....	4	431
notice .....	3	431
order concerning.....	4	430
result .....	6	431
what order for to show.....	2	430
how expended.....	7	432
<b>MEDICINE, PRACTICE OF:</b>		
By physicians from other states.....	9	292
Examination for.....	9	292
notice of.....	9	293
when waived.....	9	292
Permits for in certain areas.....	9-a	293

INDEX TO ACTS

xxvii

	SEC.	PAGE
revocation .....	9-a	293
Qualifications for.....	9	291
Who excluded from provisions of act.....	9	293
<b>McDOWELL COUNTY:</b>		
Clerical assistant to county superintendent free schools...	1	404
Sandy river district road bonds validated.....	1	448
district levy to pay.....	4	453
form .....	3	451
number and interest rate.....	2	449
<b>MENTAL DEFECTIVES, SEXUAL STERILIZATION:</b>		
Hearing upon, by council.....	1	5
Operation for.....	5	8
character of.....	6	8
when no liability to participants in.....	5	8
Order upon, by council.....	1	6
appeal from, to circuit court.....	2	6
proceedings under.....	2	7
appeal to supreme court of appeals.....	3	7
Petition concerning, to public health council; who may file	1	4
Publication of and form of notice.....	1	5
fee .....	7	8
guardian ad litem.....	1	5
Service of copy of on inmate.....	1	4
<b>MIGRATORY BIRD TREATY ACT:</b>		
(See GAME, FISH AND FORESTRY).....	54	50
<b>MINERAL COUNTY COLORED HIGH SCHOOL:</b>		
Board of directors; how constituted, duties.....	2	422
compensation .....	4	423
levy by; how collected and disbursed.....	3-a	423
pupils admitted by.....	3	422
to acquire location.....	3	422
Established .....	1	422
Referendum .....	5	423
<b>MINES:</b>		
(See DEPARTMENT OF MINES).....	—	80
(See OIL AND GAS WELLS).....	—	311
<b>MINGO COUNTY:</b>		
Special levy county purposes .....	1	427
collection and duration .....	2	428
purposes .....	3	428
<b>MONEYS:</b>		
(See STATE TREASURY) .....	—	10

	SEC.	PAGE
<b>MONONGALIA COUNTY:</b>		
General hospital .....	1	483
cost of .....	2	484
no discrimination to be practiced .....	4	484
treatment of county charges in .....	3	484
<b>MORGAN COUNTY LIBRARY:</b>		
County court to support .....	1	483
<b>MOTION FOR JUDGMENT:</b>		
Continuance .....	6	172
Docketing .....	6	175
Hearing on .....	6	172
Notice of .....	6	172
Plaintiff's affidavit of claim .....	6	173
as legal evidence .....	6	175
no plea by defendant, when .....	6	173
<b>MOTOR VEHICLES:</b>		
License fee.....	80	271
exemptions .....	80	271
form of application for .....	80	272
of fire apparatus .....	80	272
of certain ambulances .....	80	272
Operator and chauffeur certificates, revocation .....	41	261
Plates on exempted vehicles .....	80	272
<b>MUNICIPALITIES:</b>		
(See AIRPORTS) .....	—	247
(See MUNICIPAL OFFICERS) .....	—	252
(See PAVING AND SEWERING) .....	—	253
<b>MUNICIPAL OFFICERS:</b>		
Election .....	16	252
when held; regulations .....	17	253
Terms of present officers .....	16	253
<b>MUTUAL FIRE INSURANCE ASSOCIATIONS:</b>		
(See INSURANCE) .....	—	147
<b>NATURALIZATION AND PASSPORT FEES:</b>		
Circuit clerks to receive one-half .....	44-a	262
<b>NEGRO PUPILS AND TEACHERS:</b>		
Division of district school funds for negro pupils.....	67	167
Free schools for ten or more negro pupils .....	67	167
Salaries of negro teachers .....	67 (a)	167
<b>NICHOLAS COUNTY BRIDGE:</b>		
Plans .....	2	432
Special levy .....	1	432
purpose and amount .....	1	432
separate account .....	2	432

INDEX TO ACTS

xxix

	SEC.	PAGE
<b>NICHOLAS COUNTY HIGH SCHOOL:</b>		
General levy .....	4	424
independent district of Richwood exempt .....	10	425
Teachers training department levy .....	10	424
<b>NINTH JUDICIAL CIRCUIT:</b>		
Additional compensation to circuit judge .....	1	470
<b>NOTARY PUBLIC:</b>		
(See BANKING INSTITUTIONS) .....	11	118
<b>OHIO COUNTY:</b>		
Application of proceeds of bond issues .....	3	478
Board of commissioners to pay for certain street paving	1	475
Board of commissioners to pay upkeep of certain city streets .....	2	476
Compensation prosecuting attorney .....	1	463
Intermediate court, grand jury and jury commissioners..	1	477
To pay city of Wheeling for certain street paving.....	1	475
To pay city of Wheeling for upkeep of certain streets..	2	475
<b>OILS:</b>		
(See LIQUID FUEL AND OILS) .....	—	178
<b>OIL AND GAS WELLS:</b>		
Abandonment, notice .....	9	318
filling and plugging .....	10	319
when outlet required .....	10 (2)	320
when strata shot .....	1	319
Acts repealed .....	14	325
Coal removed near, notice .....	11	312
petition for permit .....	11	321
appeals .....	11	322
Definitions .....	1	312
Department of mines to issue drilling permit .....	3	313
complaints to, of violations .....	12	323
hearing and orders .....	12	323
appeals .....	12	323
docket of plats .....	3	315
final decisions .....	13	324
appeals .....	13	325
hearings by, on objections .....	3	314
locations by .....	3	315
appeals .....	3	315
procedure .....	4	316
Drilling through coal beds .....	5, 7	317
coal removed .....	8	318
gas below or between beds .....	6	317
Location on coal lands, procedure .....	2	313
Penalties .....	14	325

	SEC.	PAGE
<b>PARKERSBURG, CITY OF:</b>		
Water works bonds validated .....	1	454
amount and maturities .....	3	456
form .....	2	454
<b>PAVING AND SEWERING:</b>		
Notice to foreign corporation .....	1	253
forwarding .....	1	254
service on auditor .....	1	254
<b>PROSECUTING ATTORNEY:</b>		
(See DENTISTRY) .....	29-a (20)	291
(See ASSESSMENT, ERRONEOUS) .....	129	205
(See ASSESSMENT, RELIEF) .....	132-a	204
(See FRUITS AND VEGETABLES) .....	3	184
(See STATE WATER COMMISSION) .....	7	77
<b>PERSONAL INJURIES:</b>		
(See INFANTS' CLAIMS FOR) .....	—	169
<b>PLEADINGS AND PRACTICE:</b>		
(See COMMISSIONERS IN CHANCERY) .....	—	174
(See INFANTS' CLAIMS FOR DAMAGES) .....	—	169
(See MOTION FOR JUDGMENT) .....	—	172
(See ESTATES OF SUPPOSED DECEDENTS) .....	—	171
(See REAL ESTATE) .....	—	168
<b>POCAHONTAS COUNTY:</b>		
Salary of assessor .....	2	465
Salary of circuit clerk .....	3	466
Salary of Sheriff .....	1	465
<b>POLLUTION OF STREAMS:</b>		
(See STATE WATER COMMISSIONER) .....	—	73
<b>PRESTON COUNTY:</b>		
Stenographer for prosecuting attorney .....	1	468
<b>PRESUMPTIONS:</b>		
(See CHECKS AND DRAFTS) .....	34	176
Of death .....	14	171
Transcripts of judgments .....	11	175
<b>PROBATE:</b>		
(See CONSTITUTIONAL AMENDMENTS) .....	—	83
<b>PROBATION OFFICER:</b>		
Salary of .....	1	157
When other than sheriff may be appointed .....	1	157
<b>PROHIBITION:</b>		
(See INTOXICATING LIQUORS) .....	—	255

INDEX TO ACTS

xxxi

	SEC.	PAGE
<b>PUBLIC HEALTH COUNCIL:</b>		
(See PRACTICE ON MEDICINE) .....	—	291
(See SEXUAL STERILIZATION) .....	—	4
<b>PUTNAM COUNTY:</b>		
Salaries of county officers .....	1	473
<b>RAILROADS:</b>		
(See CONDITIONAL SALES) .....	—	299
(See FREE TRANSPORTATION) .....	—	216
(See GAME, FISH AND FORESTRY) .....		67, 70
<b>RANDOLPH COUNTY:</b>		
General levy increased and road levy reduced .....	—	438
<b>RATING BUREAUS, FIRE:</b>		
Arjuster to act for all companies .....	76-b (15)	156
Commissioner, defined .....	76-b (2)	151
data filed with .....	76-b (6)	151
disapproving agreement .....	76-b (14)	155
examination by .....	76-b (9)	153
hearing on rate charges .....	76-b (7)	152
orders on and appeals .....	76-b (7)	152
information required by .....	76-b (8)	153
Expense, how shared .....	76-b (3)	150
Fire insurance companies to be members .....	76-b (1)	150
exemptions .....	76-b (15)	156
to specify in application .....	76-b (4)	150
who may hold .....	76-b (3)	150
Penalties .....	76-b (16)	156
Rates, changes by commissioner .....	76-b (13)	154
deviation, uniform .....	76-b (11)	153
notice to bureau and commissioner .....	76-b (11)	153
discrimination prohibited .....	76-b (10)	153
hearing on .....	76-b (12)	154
orders and appeals .....	76-b (12)	154
Survey of risks .....	76-b (5)	151
copy to owner .....	76-b (5)	151
<b>REAL ESTATE:</b>		
Setting aside cloud on title .....	1	168
<b>REDISTRICTING, CONGRESSIONAL:</b>		
Boundaries of districts .....	1	282
<b>RELIGIOUS WORKERS, TRANSPORTATION OF:</b>		
(See COMMON CARRIERS) .....	—	245
<b>RESOLUTIONS:</b>		
S. J. R. 1.		
proposing location of summer White House in West Virginia .....		485

	SEC.	PAGE
S. J. R. 2, correcting seeming variance in language of legisla- tive amendment for sixty day continuous session adopted in 1928 .....		486
S. J. R. 4, furnishing state reports to U. S. circuit Judge Elliott Northcott .....		488
S. J. R. 8, constitutional amendment, creating office of lieuten- ant-governor and changing date of inauguration of elective state officers .....		489
S. J. R. 9, designating United States route No. 19 as "the Stone- wall Jackson Highway" .....		490
S. J. R. 10, urging appropriations from Congress for the improve- ment of the Ohio and Great Kanawha rivers....		491
S. J. R. 12, Constitutional probate amendment .....		492
S. J. R. 15, accepting for West Virginia University and West Vir- ginia State College grants of money under Cap- per-Ketcham act .....		493
S. J. R. 17, revised budget bill requested from budget commission		494
S. J. R. 18, adopting state flag .....		495
S. C. R. 1, Raising a joint committee to wait upon the governor (legislature organized) .....		496
S. C. R. 2, Providing for the appointment of a joint supervisor of printing for the two houses .....		496
S. C. R. 3, raising a joint committee to investigate the peniten- tiary .....		496
S. C. R. 4, providing for the introduction of a bill relative to the charter of the City of Weston .....		498
S. C. R. 5, providing for the introduction of a bill submitting an amendment to section ten of article eight of the constitution (circuit judge amendment) .....		498
H. J. R. 3, proposing an amendment to section fifty-one of article six of the constitution (Budget Amend- ment) .....		498

	SEC.	PAGE
H. J. R. 4, proposing an amendment to section ten of article eight of the constitution (Circuit Judge Amend- ment) .....		502
H. J. R. 5, authorizing the governor to appoint a commission to study constitutional needs .....		503
H. J. R. 8, providing for the printing of the minutes of the Wheeling convention of 1861 and the constitu- tional convention of 1862 .....		504
H. J. R. 10, raising a joint committee to examine the report of the revisors of the code .....		505
H. C. R. 2, raising a joint assembly to hear address of governor		506
H. C. R. 3, raising a joint assembly to publish election returns..		507
H. C. R. 4, raising a joint committee on rules .....		507
H. C. R. 5, Authorizing the auditor to draw his warrants for the mileage of members and for the per diem of officers and attaches of the House and Senate..		507
H. C. R. 7, for the establishment and maintenance of a general hospital for the care and treatment of veterans within the state of West Virginia .....		508
H. C. R. 10, recognizing the distinguished service of Master Ser- geant Roy W. Hooe, U. S. army, in the historic flight of the "Question Mark" .....		509
H. C. R. 13, authorizing the governor to appoint a commission to investigate the evidence of the birth place of Nancy Hanks in Mineral county .....		510
H. C. R. 14. Concerning a memorial for Booker T. Washington..		511
H. C. R. 15, providing for the printing and distribution of the advance copies of the Acts.....		512
H. C. R. 16, raising a joint committee to wait upon the governor (adjournment) .....		513
 ROAD BONDS:		
Auditor custodian of unsold bonds.....	12	199
Date; interest rate, when payable .....	2	192

	SEC.	PAGE
Denominations; how determined .....	2	194
Duplicates,		
form .....	2	199
original bond: when deemed cancelled .....	3	199
when lost, duty of finder .....	4	199
to be treated as original .....	3	199
when issued; duty of finder .....	4	199
Exempt from taxation .....	2	195
Expense, how paid .....	11	199
Form of, bond .....	3	195
coupon .....	4	196
Interest, when and where payable .....	2	194
coupons cancelled; when .....	9	198
how payable .....	2	194
Interim certificates .....	9	198
List of by auditor .....	5	197
Plates for, property of state .....	10	199
Principal and interest on,		
direct levy for payment .....	7	198
sinking fund; how created and expended .....	6	197
Registered bonds, transfer; fee .....	2	194
interest, when and how paid .....	2	194
from date of delivery .....	9	198
Sale; amount and purpose .....	1	191
apportionment of proceeds .....	9 (a)	199
by governor .....	9	198
paid into state road fund .....	9 (a)	199
Where payable .....	2	194
 ROANE COUNTY:		
Stenographer or clerical assistance for prosecuting attorney .....	1	472
 ROSTER:		
(See SOLDIERS, SAILORS AND MARINES) .....	—	301
 SABBATH DAY:		
Banking transaction on, valid .....	25	136
Penalty for laboring or hunting on .....	16	180
 SALARIES:		
Chief of department of mines .....	4	82
Clerk and assistants, supreme court .....	4	14
Commissioner of banking and assistants .....	12	119
County commissioners .....	—	327
Elective state officers, except governor .....	1	3
Retirement, judges supreme court .....	1	1
Members of Legislature .....	1	2
State bridge commission .....	2	17

INDEX TO ACTS

xxxv

	SEC.	PAGE
County officers,		
Hampshire county .....	—	470
Harrison county .....	—	468
Lincoln county .....	—	462
Ohio county .....	—	463
Pocahontas county .....	—	465
Putnam county .....	—	473
Taylor county .....	—	463
 SALES:		
Conditional sales		
of equipment for railroads, street railways, etc.....	8	299
how marked .....	8	300
when not valid .....	8	299
County and district owned property .....	1	300
how and when made .....	1	300
minimum value .....	1	300
 SARDIS DISTRICT HIGH SCHOOLS:		
Maintenance and control .....	2	425
Sardis and Wallace high schools validated .....	1	425
 SCAFFOLDING:		
(See LABOR) .....	—	309
 SCHOOLS, STATE:		
High and other schools, classification of .....	S2 (a)	164
by whom made .....	S2 (a)	164
county superintendent to make report; when; to		
whom .....	S2 (c)	165
maintenance of; how provided and disbursed....	S2 (b)	164
 SECOND JUDICIAL CIRCUIT:		
Terms of court .....	1-b	460
 SECURITIES:		
Definitions .....	3	295
 SEVENTH JUDICIAL CIRCUIT:		
Terms of court .....	1-g	458
 SEXUAL STERILIZATION:		
(See MENTAL DEFECTIVES) .....	—	3
 SINKING FUND COMMISSION:		
(See ROAD BONDS) .....	6	197
 SIXTEENTH JUDICIAL CIRCUIT:		
Additional compensation to judge .....	1	464

	SEC.	PAGE
<b>SLAB FORK DISTRICT COLORED HIGH SCHOOL:</b>		
Established .....	1	415
General laws to govern.....	2	415
<b>SOLDIERS, SAILORS AND MARINES:</b>		
Roster .....	1	301
appropriation .....	5	302
contract for printing.....	3	301
distribution .....	4	302
how made.....	1	301
what to contain.....	2	301
<b>SPENCER INDEPENDENT SCHOOL DISTRICT:</b>		
Estimates and levies by; increased levies.....	8	384
special election.....	8	384
<b>STATE AID:</b>		
(See SCHOOLS).....	—	164
(See STUDENTS OUTSIDE STATE).....	—	165
<b>STATE BOARD CHILDREN'S GUARDIANS:</b>		
(See WELFARE BOARDS).....	—	158
Payments by county courts.....	2	24
To certify list of wards.....	2	24
<b>STATE BOARD OF CONTROL:</b>		
(See BONDS, CONTRACTORS).....	12	294
(See CONVICTS, EMPLOYMENT OF).....	—	200
(See STUDENTS OUTSIDE STATE, RESIDEN.....	—	166
<b>STATE BOARD OF EDUCATION:</b>		
(See STUDENTS OUTSIDE STATE, RESIDEN.....	—	166
<b>STATE BRIDGE COMMISSION:</b>		
Act, construction.....	13, 15	23
Agreement with trustee.....	8	20
Bridges, constructed by.....	5	18
purchased .....	3	18
improvements before.....	4	18
revenue bonds, issued by.....	7	19
exempt from taxation.....	7	20
form .....	7	20
interest rate and maturity.....	7	20
proceeds, use.....	7	20
surplus or deficit.....	7	20
registration .....	7	20
sale .....	7	20
condemnation proceedings.....	6	19

INDEX TO ACTS

xxvii

	Sec.	Page
definitions .....	1	15
employees, qualifications.....	2	17
political activity, etc.....	2	17
members, qualifications and terms.....	2	16
oath and bond.....	2	16
political activity.....	2	17
salaries .....	2	17
how paid.....	2	17
powers and duties.....	9, 14	22, 23
tolls, rate.....	10	22
accounting for.....	10	23
discontinuance .....	11	23
 STATE FIRE MARSHAL:		
Powers as to exit doors.....	12-c	311
exceptions .....	12-c	311
penalty .....	12-c, 12-d	311
 STATE HEALTH DEPARTMENT:		
(See LABOR).....	—	309
(See STATE WATER COMMISSION).....	—	73
 STATE LIBRARY COMMISSION:		
Expenses of, how paid.....	4	10
Members, terms.....	1	8
not to engage in publishing business.....	1	9
to receive no compensation.....	1	9
Officers .....	2	9
duties of secretary.....	2	9
Powers and duties.....	3	9
 STATE OFFICIALS, ELECTIVE:		
Salaries, except governor.....	1	3
 STATE PUBLIC EMPLOYMENT BUREAU:		
Commissioner of labor to establish.....	1	29
to cooperate with federal government.....	2	29
to communicate with employers.....	3	29
to prescribe rules and regulations.....	16	32
Employment agent, defined.....	4	29
false representations by.....	5	29
license.....	6	30
expiration .....	7	30
only United States citizens may obtain.....	8	30
penalties .....	15	31
posted in place of business.....	12	31
refusal by tax commissioner.....	9	30

	SEC.	PAGE
records .....	11	31
restriction on employment by.....	14	31
When act not to apply.....	17	32
<b>STATE ROAD COMMISSION:</b>		
( <i>See</i> CONVICTS, EMPLOYMENT OF).....	—	200
( <i>See</i> INTOXICATING LIQUORS).....	—	255
( <i>See</i> ROAD BONDS).....	6	197
<b>STATE SUPERINTENDENT OF FREE SCHOOLS:</b>		
( <i>See</i> SCHOOLS—STATE AID).....	—	164
<b>STATE TAX COMMISSIONER:</b>		
( <i>See</i> ERRONEOUS ASSESSMENTS).....	129	206
( <i>See</i> INHERITANCE TAX).....	6	213
( <i>See</i> TAXATION).....	203,	205
( <i>See</i> WATER POWER).....	6	225
<b>STATE TREASURER:</b>		
( <i>See</i> ROAD BONDS).....	—	191
( <i>See</i> WATER POWER).....	6(c)	226
<b>STATE TREASURY, PAYMENTS INTO:</b>		
By clerk of supreme court of appeals.....	1	13
By commissioner of prohibition.....	4	257
Effective date of act.....	5	12
Moneys paid into.....	1	10
exceptions .....	2, 4	11
how expended.....	2	11
how treated and expended.....	1	10
penalties for violations.....	6	12
penalties for violations.....	3	11
<b>STATE WATER COMMISSION:</b>		
Citation before, for causing pollution.....	5	74
Construction of act.....	9	77
Definitions .....	1	73
How constituted.....	2	73
Officers of.....	3	74
Order by, to cease polluting.....	6	75
enforcement .....	6	76
review of, by courts.....	7	77
revocation .....	6	76
service .....	6	76
study of pollution of waters by.....	8	77
what to specify.....	6	75
Reimbursement for expenditures.....	2	73
Right to enter premises.....	4	74
Stenographic and other help.....	3	74

	SEC.	PAGE
<b>STUDENTS OUTSIDE STATE, RESIDENT:</b>		
State aid to; when granted.....	1	166
funds for; how disbursed.....	3	166
rules and regulations governing.....	2	166
<b>SUNDAY:</b>		
Banking transactions on, legal.....	25	136
Carrying firearms, etc., on, penalty.....	16	189
Hunting on, unlawful.....	20	40
<b>SUPREME COURT OF APPEALS:</b>		
Clerk. fees to be charged by.....	1	12
accounting for fees.....	1	13
monthly reports by, to auditor.....	2	13
penalty for violations by.....	3	14
salary of.....	4	14
Judges, retirement pay.....	1	1
<b>TAXATION:</b>		
(See ASSESSMENT OF BANK STOCK).....	—	102
Assessment, erroneous;		
act to apply to 1928 taxes.....	132-a	205
appeals from; when.....	129	205
by taxpayer to supreme court.....	129	206
precedence of.....	129	206
procedure.....	129	205
when valuation increased.....	129	206
collection of when not returned delinquent.....	14-a-1	270
how and by whom made.....	14-a-1	270
limitation of time in which to make.....	14-a-1	270
when taxpayer moves from county.....	14-a-1	271
corrections of.....	132-a	203
relief from.....	132-a	204
Inheritance tax, when payable.....	1	210
intangible personal property defined.....	6	215
on property of non-resident.....	6	212
exemptions.....	6	214
how operated.....	6	215
liability of bolder.....	6	214
rates, primary.....	2	212
excess market value.....	2-a	212
<b>TAYLOR COUNTY:</b>		
Compensation prosecuting attorney.....	1	463
Special bridge levy.....	1	473
<b>TELEPHONE, COIN BOX:</b>		
Penalty for fraudulent operation.....	1	177

	SEC.	PAGE
<b>THIRD JUDICIAL CIRCUIT:</b>		
Stenographer for judge.....	1	464
compensation of.....	2	465
<b>THOMAS, CITY OF:</b>		
Special levy for water works.....	1	427
<b>TREES, SHRUBBERY, ETC.:</b>		
Penalty .....	4	247
Possession of or hauling on highways.....	2	247
when unlawful.....	2	247
Privileges of public service companies under act.....	3	247
Unlawful to damage; when.....	1	247
within certain distance of highways.....	1	247
<b>TRUSTEES:</b>		
Property; charitable, etc., transfer.....	1	280
court order and recordation; when necessary.....	1	281
duties concerning.....	1	280
papers, etc., to successor trustee.....	1	281
when circuit court to appoint.....	2	281
<b>TRUST PROPERTIES:</b>		
(See TRUSTEES).....	—	280
<b>TUCKER COUNTY:</b>		
Stenographic help for prosecuting attorney.....	1	471
duties of.....	2	471
<b>TWENTY-FOURTH JUDICIAL CIRCUIT:</b>		
Terms of court.....	1-h.	458
<b>TWENTY-THIRD JUDICIAL CIRCUIT:</b>		
Additional compensation to judge.....	1	466
<b>TYLER COUNTY HIGH SCHOOL:</b>		
Board of education, terms of office.....	1	412
levies by.....	4	412
exemptions from.....	4	412
Locatio n.....	1	412
<b>VACANCIES IN OFFICE:</b>		
County, how filled.....	9	326
commissioner, when governor to appoint.....	9	326
<b>VETERANS GUARDIANSHIP:</b>		
Act; to apply to government beneficiaries only.....	16	308
how cited.....	17	308

	SEC.	PAGE
how interpreted.....	18	308
when part invalid.....	19	308
Certified copies without cost.....	13	307
Guardian or committee; when appointed.....	1	303
annual accounting by.....	8	305
certified copy to be filed.....	8	306
failure to make.....	9	306
hearing on; time and place for.....	8	306
compensation .....	10	306
discharge .....	15	307
disbursements by, for other than ward.....	12	306
for more than five in same family.....	2	303
investment of funds.....	11	306
petition for appointment; contents.....	3	303
certificate of incompetency filed with.....	5	304
evidence of necessity for.....	4	304
notice of.....	6	305
qualifications and bond.....	7	305
when bank or trust company act as.....	2	303
when estate less than five hundred dollars.....	7	305
when unlawful; removal.....	2	303
Hospitalization of veterans.....	14	307

**WASHINGTON INDEPENDENT SCHOOL DISTRICT:**

Board of education, terms.....	2	405
corporate powers.....	6	407
duties .....	7	407
election, terms and oath.....	3	405
estimates and levies.....	11	408
may appoint examining committee for teachers.....	10	409
meetings and compensation.....	5	406
secretary, duties.....	4	406
to appoint superintendent.....	9	408
compensation, removal and duties.....	9	408
to employ teachers and employees.....	10	408
to provide buildings and equipment.....	8	407
vacancy .....	4	406
General school laws to apply.....	12	409
Referendum in Washington District.....	12	409

**WATER POWER:**

Acts repealed.....	19	245
Control by state.....	1	216
Definitions .....	2	217
Development, by state.....	14	243
policy to encourage.....	1	216
safety of human life.....	3 (1)	222

	SEC.	PAGE
Eminent domain.....	S	229
cemeteries .....	S(j)	237
compensation .....	S(a)	230
crossing railroad, pipe line, etc.....	S(c)	230
dams or other structures.....	S(c)	231
existing hydro-electric developments.....	9	240
limitation as to power sites.....	S(d)	232
as to railroads.....	S	230
material, taking.....	S(i)	237
natural flow to gasoline plants, etc.....	S(c)	231
private enterprises, not conferred on.....	S	229
private railways or wire lines.....	S(f)	233
property and rights included.....	S(c)	232
pumping station, gasoline plants, etc.....	S(g)	234
relocation of railways, pipe lines, etc.....	S(h)	236
roads, bridges and ferries.....	S(h)	235
substitute lands, etc.....	S(g)	235
sub-stations, power lines, etc.....	S(l)	239
telephone and telegraph lines.....	S(g-a)	236
time limit.....	S(b)	231
Invalidity of separable provisions.....	17	244
Navigable and floatable streams.....	10	240
Public service commission to control .....	1	216
appeals from .....	13	242
licenses by .....	3 (e)	219
acceptance .....	3 (e) (2)	220
alteration.. or amendment .....	14	243
amendment of act, not affect .....	14	243
application for, consideration .....	3 (d)	219
conflicting .....	3 (g)	221
maps, etc., filed with .....	3 (f)	221
notice .....	3 (e) (3)	220
existing developments and permits.....	11, 18	241, 244
governor to vote upon .....	3 (e) (i)	219
hearings .....	3 (b)	218
period and extensions .....	4	223
plants wholly within state .....	3 (c) (3)	220
private enterprises .....	16	243
provisions in .....	3 (e) (3)	220
reimbursement of licensee .....	7	229
revocation or modification by court .....	4	223
sale under .....	4	223
transfer .....	5	224
mandamus against .....	13	243
records, rules and orders .....	3 (h)	222
failure to observe, penalty .....	15	243
powers and duties.....		217, 218
audit books .....	3 (h)	222

	SEC.	PAGE
collect data .....	3 (a)	218
employ engineers .....	3 (c)	218
prescribe regulations .....	3 (c)	218
regulate rates and charges .....	3 (j)	218
Public use of impounded waters .....	8 (c), 10, 12	241, 242
Riparian owners, rights .....	1, 8 (c)	216, 232
 <b>WAYNE COUNTY:</b>		
Main leading county road .....	1	439
other funds for .....	6	441
plans for .....	8	441
special levy Butler district .....	2	439
special levy Ceredo district .....	3	440
another road from surplus funds .....	4	440
advisory committee .....	5	441
plans for .....	5	441
when void .....	7	441
special levy Lincoln district .....	1	439
 <b>WEBSTER COUNTY:</b>		
General levy increased and road levy reduced .....	1	448
Special levy to pay Four-H club indebtedness .....	1	444
 <b>WELFARE BOARDS:</b>		
Creation .....	1	158
Duties .....	2	158
Members; of whom to consist .....	1	158
meetings .....	3	159
vacancies .....	3	159
when appointed; term of office .....	3	159
Secretary, salary of; how paid .....	2	158
power and duties as probation officer .....	6	159
removal .....	5	159
when juvenile probation officer .....	2	158
 <b>WEST VIRGINIA CHILDRENS HOME:</b>		
Inmates, payments by county courts for .....	1	24
certified lists of .....	2	24
 <b>WEST VIRGINIA COLLEGIATE INSTITUTE:</b>		
(See WEST VIRGINIA STATE COLLEGE) .....	—	26
 <b>WEST VIRGINIA COLORED ORPHANS HOME:</b>		
Inmates, payments by county courts for .....	1	24
certified lists of .....	2	24
 <b>WEST VIRGINIA INDUSTRIAL HOME FOR GIRLS:</b>		
Transfer of feeble minded to hospital .....	1	25

	SEC.	PAGE
payment for, by county court .....	1	25
Treatment for venereal disease before commitment.....	2	26
payment for, by county court .....	1	25
payment for, by county court .....	2	26
<b>WEST VIRGINIA STATE COLLEGE:</b>		
Additional schools and courses of study .....	150	28
Appropriations .....	150	26
Approval of rules of general government .....	150	27
Change of name to .....	150	26
Control and management .....	150	26
Extension work .....	150	27
Federal funds .....	150	27
<b>WEST VIRGINIA UNIVERSITY:</b>		
Federal funds .....	150	27
<b>WEST VIRGINIA UNIVERSITY:</b>		
(See GARDEN PRODUCTS).....	—	186
<b>WETZEL COUNTY LAW LIBRARY:</b>		
Board of directors for .....	2	480
County court to establish .....	1	480
Protection of books .....	3	481
<b>WORKMENS COMPENSATION:</b>		
Commissioner, appointment and qualifications .....	1	273
account of receipts, etc. ....1 (a)		274
attorney general's services .....	1 (a)	274
business activities .....	1 (b)	274
grouping industries .....	18	274
hearing on awards .....	43	277
appeal .....	43	278
proceedings on .....	43	278
modification of findings .....	40	277
oath and bond .....	1	273
official seal .....	1 (d)	274
salary .....	1 (c)	274
Fatal and permanent disability cases .....	1 (a)	275
Funeral expenses .....	29	276
Intra and inter state commerce .....	52	279
exceptions .....	52	279
Premium rates, amount .....	1 (b)	275
basis .....	1 (b)	275
readjustment .....	1 (b)	275
notice .....	1 (b)	275
variation .....	1 (b)	275
Surplus fund, amount .....	1 (b)	276

INDEX TO ACTS

---

	SEC.	PAGE
WYOMING COUNTY:		
Indebtedness, special levy .....	1	429
other payments on .....	4	429
purposes .....	2	429
Limitation on other levies .....	3	429